

Supreme Court of the United States

Volume 100

No. 24

**RECORDING OF RAILROAD TRAILERS
NOTED**

WHEELING, WEST VIRGINIA

**IN THE SUPREME COURT OF THE UNITED STATES
OF THE DISTRICT OF COLUMBIA**

**RECORDED AND INDEXED SEPTEMBER 1, 1900
RECEIVED SEPTEMBER 11, 1900**

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1963

No. 34

BROTHERHOOD OF RAILROAD TRAINMEN,
PETITIONER,

vs.

VIRGINIA, EX REL. VIRGINIA STATE BAR.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF APPEALS
OF THE COMMONWEALTH OF VIRGINIA

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[fol. 1]

**IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA**

COMMONWEALTH OF VIRGINIA, ex rel.,
VIRGINIA STATE BAR, Complainant,

v.

BROTHERHOOD OF RAILROAD TRAINMEN, c/o V. W. Satter-
white, Assistant to the President, 904 West 30th Street,
Richmond, Virginia,

and

BERNARD M. SAVAGE, 3100 Mathieson Building,
Baltimore 2, Maryland,

and

NORRIS W. TINGLE, 3100 Mathieson Building,
Baltimore 2, Maryland, Defendants.

BILE OF COMPLAINT—Filed June 29, 1959

To the Honorable Judge of Said Court:

The complainant respectfully represents to the Court:

1. The complainant, Virginia State Bar, is the administrative agency of the Commonwealth of Virginia, comprised of all lawyers duly qualified and licensed to practice law in the Commonwealth, having the duty to investigate and report all violations of statutes, rules and regulations concerning the practice of law therein.

2. The defendant, Brotherhood of Railroad Trainmen (hereinafter sometimes referred to as the Brotherhood), is a trade union, an unincorporated association, with its headquarters located in Cleveland, Ohio. The Brotherhood is composed of lodges located in all of the forty-eight states [fol. 2] of the United States, twelve of which have their headquarters in the Commonwealth of Virginia and three

of which have their headquarters in Richmond, Virginia. All of the members of said lodges are the employees of some railroad. V. W. Satterwhite, a resident of Richmond, Virginia, is an assistant to the president of the Brotherhood and is an officer of the Brotherhood.

3. The defendant, Bernard M. Savage (hereinafter sometimes referred to as Savage), is an attorney at law and a resident of the State of Maryland. He is not a member of the Virginia State Bar and is not licensed to practice law in the Commonwealth of Virginia. He was formerly designated by the Brotherhood of Railroad Trainmen as its Regional Counsel and, since April of 1959, is now designated as one of its Legal Counsel.

4. The defendant, Norris W. Tingle (hereinafter sometimes referred to as Tingle), is a resident of the State of Maryland and is an employee of both of the other defendants. He is designated by the defendant, Brotherhood of Railroad Trainmen, as its Regional Investigator.

5. The Brotherhood maintains what it calls a "Legal Aid Department" which, while collecting information that is valuable to those who are interested in the welfare of railroad employees, also solicits business through the means of certain of its employees and members of its lodges for various attorneys at law throughout the United States which have been selected by the Legal Aid Department and designated by said department as Regional or Legal Counsel.

6. The solicitation of business for Regional or Legal Counsel has been conducted in the following manner: when a lodge member is injured or killed in the course of his employment, he or his family or estate notifies his lodge and his lodge, acting through its secretary or some other member, notifies the Legal Aid Department of the injury or death; the Legal Aid Department immediately notifies Regional or Legal Counsel of the injury or death; Regional or Legal Counsel, in turn, sends the Regional Investigator, [fol. 3] a person who is employed and paid by both Regional or Legal Counsel and by the Brotherhood, to investigate the happening; in many cases both the lodge to which the

injured man belongs or to which the deceased belonged, acting through its officers and members and the Regional Investigator, advise the injured person or his family, or the family or estate of the deceased, that the claim against the injured or deceased member's employer should not be settled without consulting Regional or Legal Counsel; and the Regional Investigator then arranges for the injured party or family of the deceased to execute the necessary agreements retaining the services of Regional or Legal Counsel on forms which he carries with him.

7. Regional and Legal Counsel handle any and all such matters on a contingent fee basis that is fixed and set by the Brotherhood through its Legal Aid Department and, together with other Regional or Legal Counsel, he supports the Legal Aid Department by paying annually to the Legal Aid Department a sum assessed by said department, the amount of which is determined by the department by the use of a formula that takes into account the volume of fees collected by Regional or Legal Counsel from members of the Brotherhood, their families or estates. Regional or Legal Counsel further makes advances for the support and maintenance of injured Brotherhood members or the families of deceased members pending settlement of claims that he agrees to handle for them.

8. The Brotherhood, Savage as Regional and Legal Counsel for an area which includes the entire Commonwealth of Virginia, and Tingle as Regional Investigator for the Commonwealth of Virginia have engaged in the practices hereinabove referred to and the complainant is advised are engaging in such practices in the Commonwealth of Virginia and in the City of Richmond.

9. Your complainant charges that the practices hereinabove described constitute the unauthorized practice of law in the Commonwealth of Virginia by each of the defendants, the Brotherhood, Savage and Tingle.

[fol. 4] Wherefore, your complainant prays that the Brotherhood, Savage and Tingle be permanently enjoined and restrained from engaging in or continuing the practices hereinabove described and from practicing law, directly

or indirectly, in the Commonwealth of Virginia and from engaging in any activities connected therewith.

Commonwealth of Virginia ex rel., Virginia State Bar, By: Aubrey R. Bowles, Jr., 901 Mutual Building, Richmond 19, Virginia, Its Counsel.

Bowles, Anderson, Boyd, Clarke & Herod, 901 Mutual Building, Richmond 19, Virginia, Of Counsel.

[fol. 5] [File endorsement omitted]

[fol. 11]

IN THE CHANCERY COURT OF THE CITY OF RICHMOND

[Title omitted]

ANSWER OF RESPONDENT, BROTHERHOOD OF
RAILROAD TRAINMEN—Filed August 7, 1959

The Answer of Brotherhood of Railroad Trainmen to a bill of complaint exhibited against it in the Chancery Court of the City of Richmond, Virginia, by Commonwealth of Virginia, ex rel., Virginia State Bar:

For Answer thereto, or so much thereof as it is advised that it is material it should answer, it answers and says:

1. This respondent Brotherhood admits the allegations contained in Paragraph 1 of Bill of Complaint.

2. This respondent Brotherhood admits the allegations contained in Paragraph 2 of Bill of Complaint.

3. This respondent Brotherhood is not fully informed as to the allegations set out in Paragraph 3 of said Bill with reference to whether defendant Bernard W. Savage is not a member of the Virginia State Bar and is not licensed to practice law in the Commonwealth of Virginia. Respondent Brotherhood admits that Bernard W. Savage is designated as one of its legal counsel.

4. This respondent Brotherhood admits that the defendant Norris W. Tingle is an employee of this respondent

and denies all other allegations of Paragraph 4 of said Bill of Complaint.

5. Respondent Brotherhood admits that this defendant, prior to January 1, 1959, maintained a department which was designated "Legal Aid Department," and further admits that the said department collected information which was, and is, valuable to those who are interested in the welfare of railroad employees. Respondent further avers that on January 1, 1959, the said Legal Aid Department was redesignated as "Department of Legal Counsel." Respondent denies all other allegations in Paragraph 5 of said Bill of Complaint.

[fol. 12] 6. Answering Paragraph 6 of the Bill of Complaint, Respondent Brotherhood admits that when a lodge member is injured or killed in the course of his employment, he or his family or estate notifies the lodge. Respondent further admits that prior to the change of April 1, 1959, hereinafter more particularly set forth, that the lodge in some cases notified the Legal Aid Department and admits that in some cases the Legal Aid Department notified the Regional or Legal Counsel of the injury or death, and further admits that in some cases members and employees of the respondent recommended that Regional or Legal Counsel be consulted before the settlement of claims. Respondent denies all other allegations in paragraph 6 of the Bill of Complaint.

7. Answering Paragraph 7, Respondent Brotherhood admits that Regional and Legal Counsel handled such matters on a contingent fee basis, admits that prior to April 1, 1959, Regional and Legal Counsel supported the Legal Aid Department or the Department of Legal Counsel by contributions based on the ratio which the individual counsel's gross amount of settlements bore to the total settlements of Regional or Legal Counsel throughout the country. Further, answering Respondent avers that individual counsel had agreed with this respondent as to the fee to be charged members of the Brotherhood prior to April 1, 1959. This respondent denies all other allegations of Paragraph 7 of said Bill of Complaint.

8. Answering Paragraph 8, respondent Brotherhood denies all allegations therein and avers that prior to April 1, 1959, it engaged only in those practices alleged which it has previously admitted herein.

9. Respondent Brotherhood denies the allegations set out in Paragraph 9 of said Bill of Complaint. The respondent Brotherhood would show unto the court the following:

(a) That on a referendum questionnaire and majority vote from the members of the lodges of the Trainmen in the United States in 1930, the Brotherhood established a department of Legal Aid Department. The said Legal Aid Department was subject to the provisions of the constitution of the Trainmen and to the authority of the President of the Brotherhood.

[fol. 13] (b) The Respondent Brotherhood further shows that after April 1, 1959, it eliminated certain practices in the operation of its Department of Legal Counsel which had been determined objectionable; that the Brotherhood at its own expense investigates accidents of its members so that it will be acquainted with the cause of said accidents and by so doing it will be able to remedy any violation of the Federal Employers' Liability Act and the Safety Appliance Act. The result of such investigation is made available solely to the injured person or family.

Wherefore, the defendant Brotherhood prays that the Bill of Complaint be dismissed for the reason that the issues raised by the Bill of Complaint are moot and insufficient for want of equity.

Brotherhood of Railroad Trainmen, By Beecher E. Stallard, 1223-29 Cen. Natl. Bank Bldg., Richmond, Virginia.

Certificate of service (omitted in printing).

[fol. 14]

[File endorsement omitted]

[fol. 30]

IN THE CHANCERY COURT OF THE CITY OF RICHMOND

[Title omitted]

MORE PARTICULARS FURNISHED BY DEFENDANTS—

Filed March 14, 1960

In compliance with an order heretofore entered in this cause, the defendant, Brotherhood of Railroad Trainmen, furnishes the complainant the following information:

Statement of the particulars of each of the certain practices which were eliminated on April 1, 1959, because the practices had been determined to be objectionable.

A. The financial connections between Legal Counsel and the Brotherhood of Railroad Trainmen, and its Legal Aid Department were eliminated. Specifically, the practice by which Regional Counsel reimbursed the Brotherhood for the cost of operating the Legal Aid Department in the ratio that their respective gross recoveries bore to the total gross recoveries by Regional Counsel throughout the country has been abolished. The cost of operating the Department of Legal Counsel is borne solely by the Brotherhood and its members.

B. A practice had developed whereby local lodge officers and members were compensated for their lost time and expenses when they accompanied injured members to the offices of Regional Counsel, whether or not Regional Counsel were retained and, if retained, whether or not any settlement or judgment was paid by the defendant, was determined to be objectionable and was eliminated.

C. Criticism by railroad and others that the title of the Legal Aid Department was deceptive and created an impression that the Department was a charitable organization akin to other Legal Aid Societies was received by the Brotherhood and such nomenclature was determined to be objectionable in some respects. Such objections were a prime consideration in the entitling of the new department [fol. 31] as the "Department of Legal Counsel".

D. There was an agreement between Regional Counsel and the Brotherhood that a fee of twenty-five per cent should be charged in each case whether recovery was had by settlement or by judgment, and that the Regional Counsel agreed to, and did, pay all Court costs, investigation costs, costs of doctors' examinations, expert witness' fees, transcript costs and the costs of printing briefs on appeal out of the twenty-five per cent fee. Such agreement was considered to be objectionable and was abrogated. As a result, Legal Counsel are not subject to suggestion or compulsion by the Brotherhood as to the fees and expenses charged their clients who are Brotherhood members.

E. Throughout the years, an unauthorized practice had developed by which some Regional Investigators carried blank copies of contracts employing the Regional Counsel as an attorney. Whether this actually took place in Virginia has not been confirmed by the Brotherhood; however, such practice has been deemed objectionable and has been eliminated.

F. A practice had developed in some instances in the Legal Aid Department whereby Regional Counsel were notified of those injuries and deaths of members which occurred in railroad service when such information was reported to the Legal Aid Department. This practice of notification to Regional Counsel was deemed objectionable and that department and its successor, the Department of Legal Counsel, no longer notifies Counsel of any reports received by it.

The method and means by which Brotherhood investigations are made available to the injured member, or to the family of the deceased member.

The investigation made by the Brotherhood is forwarded by mail to the Department of Legal Counsel, located in Cleveland, Ohio. The only means by which the injured member or the family of the deceased member can obtain the investigation is by a letter to the Department requesting the same. Copies of the original reports, photographs, or statements of witnesses are sent to the injured member, or to the family of the deceased member, by mail. If a

photograph or signed statement is required for the trial [fol. 32] of a case brought by a member or by his personal representative, special arrangements may be made to obtain the originals for that purpose. Said originals must be returned to the Department of Legal Counsel when the trial is completed.

Brotherhood of Railroad Trainmen, By: Beecher E. Stallard, 1223-29 Cen. Natl. Bank Bldg., Richmond, Virginia.

Certificate of service (omitted in printing).

[fol. 33] [File endorsement omitted]

[fol. 42]

IN THE CHANCERY COURT OF THE CITY OF RICHMOND

[Title omitted]

EXCERPTS FROM ANSWER OF DEFENDANT, BROTHERHOOD OF RAILROAD TRAINMEN TO REQUEST FOR DOCUMENTS AND OTHER INFORMATION—Filed May 11, 1960

9. The Brotherhood has no records in its office of agreement with Regional Counsel or Legal Counsel in Virginia.

[fol. 44] 17. There were no such contributions made per case.

Prior to April 1, 1959, Regional Counsel made contribution to Legal Aid Department solely to reimburse the Department for actual operating expenses and during the preceding five years the following amounts were paid to the Legal Aid Department, based on the amount of business done for the year.

(a) 1959—none; 1958—\$1,020.00; 1957—\$2,076.00; 1956—\$5,028.00; 1955—\$1,821.00 and 1954—not available.

No amount has been contributed or will be contributed after April 1, 1959.

[fol. 46] C. R. Maher. (See affidavit next page.)

Beecher E. Stallard, p.d., 1223-29 Central Natl. Bank Bldg., Richmond, Virginia.

[fol. 47]

STATE OF OHIO,
CUYAHOGA COUNTY, SS.:

C. R. Maher, Chief Clerk to the President, for and on behalf of the Brotherhood of Railroad Trainmen, one of the defendants named in the above styled suit, being first duly sworn, deposes and says that the facts and allegations contained herein are true, except so far as they are therein stated to be on information, and that so far as they are therein so stated, I believe them to be true.

C. R. MAHER, Affiant.

Subscribed and sworn to before me this 5th day of May, 1960.

ALBERTA M. BLUM, Notary Public.

Alberta M. Blum, Notary Public. My Commission Expires Nov. 2, 1962.

[SEAL]

[fol. 48] [File endorsement omitted]

[fol. 49]

IN THE CHANCERY COURT OF THE CITY OF RICHMOND

[Title omitted]

EXCERPT FROM SUPPLEMENTAL ANSWER OF DEFENDANT
BROTHERHOOD OF RAILROAD TRAINMEN TO REQUEST FOR
DOCUMENTS AND OTHER INFORMATION—September 13,
1960

By way of explanation, the Brotherhood wishes to add the following:

2. In Paragraph marked 17, the next to the last line, before the word "amount" add the word "total." At the end of the sentence add "in all states by Bernard M. Savage."

Brotherhood of Railroad Trainmen, By: Beecher E.
Stallard, 1223-29 Cen. Natl. Bank Bldg., Richmond,
Virginia.

[fol. 72]

IN THE CHANCERY COURT OF THE CITY OF RICHMOND

[Title omitted]

EXCERPTS FROM ANSWER BY W. P. KENNEDY, PRESIDENT OF THE BROTHERHOOD OF RAILROAD TRAINMEN TO REQUEST NUMBERS 2, 3, 5, 8 and 9 of "REQUEST FOR FURTHER PARTICULARS BY COMPLAINANT"—January 14, 1961

Now comes W. P. Kennedy, President of the Brotherhood of Railroad Trainmen and in answer to specific requests contained in "Request for Further Particulars by Complainant" answers and says:

1. Request number 2:

Verbal instructions relating to the redesignation of the "Legal Aid Department" were given by me at a meeting of all Legal Counsel on March 25, 1959, at the Hotel Jefferson, St. Louis, Missouri, at which meeting Chief Clerk C. B. Maher was also present. The said instructions were given to all present and constituted of an announcement that I, as President of the Brotherhood of Railroad Trainmen, had abolished the "Legal Aid Department" and had established a "Department of Legal Counsel" in its place. I further instructed those present that Brotherhood Counsel were to comply fully and completely with the decision of the Supreme Court of Illinois entitled *In Re Brotherhood of Railroad Trainmen*, 13 Ill. 2d 391, 150 N.E. 2d 163, [fol. 73] and that the Brotherhood would also comply with that decision. The purpose of the giving of the said instructions was informational and I informed all present that they were to govern themselves in accordance with the said instructions.

2. Request number 3:

At the same meeting, I verbally instructed those present that I had abolished the title of Regional Counsel and had established the title of Legal Counsel. I further instructed those present that I had redesignated the title of all attorneys holding appointments as Regional Counsel to Legal Counsel.

I also informed the meeting that as such Legal Counsel, the attorneys were to represent the Brotherhood as an entity in all legal work affecting the Brotherhood in their respective territories. This was done in order to change the previous practice whereby in some instances attorneys other than Regional Counsel represented the Brotherhood of Railroad Trainmen in a small percentage of the matters affecting the Brotherhood as an entity.

Since that announcement, I, at various times and places, have informed all Grand Lodge Officers and many General Chairman and local lodge officers that they are to obtain legal advice and legal services in matters involving the Brotherhood solely from the Legal Counsel in their area.

3. Request number 5:

I appointed Bernard M. Savage and Lewis & Lewis as Legal Counsel on March 25, 1959, at the said meeting of all Counsel in St. Louis, Missouri. The appointments were verbal and their duration is subject to the will of the President of the Brotherhood of Railroad Trainmen.

[fol. 87]

IN THE CHANCERY COURT OF THE CITY OF RICHMOND

[Title omitted]

AMENDMENT TO ANSWER OF RESPONDENT, BROTHERHOOD OF RAILROAD TRAINMEN—Filed April 10, 1961

Amended Answer of Brotherhood of Railroad Trainmen to a Bill of Complaint exhibited against it in the Chancery Court of the City of Richmond, Virginia, by Commonwealth of Virginia, ex rel. Virginia State Bar.

The Respondent by way of amendment and supplement to its original Answer in this cause, says that heretofore it filed its answer in this court, and ask that it be taken and read in connection with this, its amended and supplemental answer to the same extent and with the same effect as if the same were herein set forth; for Answer to the Bill of

Complaint exhibited against it, the Respondent adds Paragraph (c) to Paragraph 9, beginning immediately after paragraph marked (b), to read as follows:

9(c) The Respondent, Brotherhood of Railroad Trainmen, alleges that it has the legal right to assist any of its injured members by making available to them or their family, the information gathered as a result of its investigation and that in addition it has the right to advise injured members to consult or employ attorneys and doctors for the purpose of protecting their rights, and further alleges that these rights are guaranteed to it by the Virginia Bill of Rights (Virginia Constitution Section 12) and secured by the 1st Amendment to the Constitution of the United States and guaranteed by the 14th Amendment to the Federal Constitution.

[fol. 88] Wherefore, Respondent, therefore, prays that it may file its amended and supplemental answer and that the bill of complaint exhibited against it be dismissed for the reason that the issues raised by the bill of complaint are moot and insufficient for want of equity.

Brotherhood of Railroad Trainmen, By: Beecher E. Stallard, 1223-29, Cen. Natl. Bank Bldg., Richmond, Virginia.

Certificate of Service (omitted in printing).

[fol. 89] [File endorsement omitted]

[fol. 119]

IN THE CHANCERY COURT OF THE CITY OF RICHMOND

[Title omitted]

MOTION TO STRIKE THE TESTIMONY OF LAWRENCE EDWARD TROXTELL AND VIRGINIA LEE TROXTELL—Filed January 23, 1962

To the Honorable Brockenbrough Lamb, Judge of Said Court:

The defendant, Brotherhood, moves the Court to strike out the testimony introduced by the plaintiff through Law-

rence Edward Troxtell and Virginia Lee Troxtell, and any exhibits filed therewith as evidence, for the following reasons:

1. The testimony of the witnesses to incidents taking place in the State of Indiana is not relevant to prove the allegations of the bill of complaint, namely that the practices of defendant Brotherhood constitute the unauthorized practice of law in the Commonwealth of Virginia and the City of Richmond, and therefore, should be restrained by the Court.

2. If the defendant Brotherhood were guilty of the unauthorized practice of law in the State of Indiana (and defendant does not know what practices constitute the unauthorized practice of law in Indiana State) where the incident described by the witnesses, took place, this court does not have jurisdiction to enforce its decree in the State of Indiana.

3. If the incidents described by the witnesses had taken place in the Commonwealth of Virginia they would not be sufficient to prove that defendant Brotherhood was guilty of the unauthorized practice of law in the Commonwealth of Virginia. The defendant Brotherhood would have had a constitutional right, both state and Federal, to do the acts described by the witnesses.

4. The testimony does not prove that defendant Brotherhood is now carrying on in Virginia the practices as described by the witnesses.

[fol. 120] 5. The exhibit filed with the testimony is a written statement taken by a representative of either the Association of American Railroads or a local railroad. The exhibit could be used by the witness if it was made by him to refresh his memory when testifying, if he made the statement in question. It is not proper evidence in this case and should be excluded.

Brotherhood of Railroad Trainmen, By: Beecher E. Stallard, 1223-29 Cen. Natl. Bank Bldg., Richmond, Virginia.

Certificate of service (omitted in printing).

[fol. 121]

[File endorsement omitted]

[fol. 122]

IN THE CHANCERY COURT OF THE CITY OF RICHMOND

[Title omitted]

MOTION TO STRIKE THE TESTIMONY OF ELMO S. LOMAN AND
GLORIA M. LOMAN—Filed January 23, 1962

To the Honorable Brockenbrough Lamb, Judge of Said
Court:

The defendant Brotherhood moves the Court to strike out the testimony introduced by the plaintiff through Elmo S. Loman and Gloria M. Loman, and any exhibits filed therewith as evidence, for the following reasons:

1. The testimony of the witnesses to incidents taking place in the State of California is not relevant to prove the allegations of the bill of complaint, namely that the practices of defendant Brotherhood constitute the unauthorized practice of law in the Commonwealth of Virginia and the City of Richmond, and therefore, should be restrained by the Court.

2. If the defendant Brotherhood were guilty of the unauthorized practice of law in the State of California (and defendant does not know what practices constitute the unauthorized practice of law in California State) where the incident described by the witnesses took place, this Court does not have jurisdiction to enforce its decree in the State of California.

3. If the incidents described by the witnesses had taken place in the Commonwealth of Virginia they would not be sufficient to prove that defendant Brotherhood was guilty of the unauthorized practice of law in the Commonwealth of Virginia. The defendant Brotherhood would have had a constitutional right, both state and Federal, to do the acts described by the witnesses.

[fol. 123]. 4. The testimony does not prove that defendant Brotherhood is now carrying on in Virginia the practices as described by the witnesses.

5. The exhibit filed with the testimony is a written statement taken by a representative of either the Association of American Railroads or a local railroad. The exhibit could be used by the witness if it were made by him to refresh his memory when testifying, if he made the statement in question. It is not proper evidence in this case and should be excluded.

Brotherhood of Railroad Trainmen, By Beecher E. Stallard, 1223-29 Cen. Natl. Bank Bldg., Richmond, Virginia.

Certificate of service (omitted in printing).

[fol. 124] [File endorsement omitted]

[fol. 125]

IN THE CHANCERY COURT OF THE CITY OF RICHMOND

[Title omitted]

MOTION TO STRIKE THE TESTIMONY OF KENNETH H. GIBSON—
Filed January 23, 1962

To the Honorable Brockenbrough Lamb, Judge of Said Court:

The defendant Brotherhood moves the Court to strike out the testimony introduced by the plaintiff through Kenneth H. Gibson and any exhibits filed therewith as evidence, for the following reasons:

1. The testimony of the witness to incidents taking place in the State of Iowa is not relevant to prove the allegations of the bill of complaint, namely that the practices of defendant Brotherhood constitute the unauthorized practice of law in the Commonwealth of Virginia and the City of Richmond, and therefore, should be restrained by the Court.
2. If the defendant Brotherhood were guilty of the unauthorized practice of law in the State of Iowa (and defendant does not know what practices constitute the unauthorized practice of law in Iowa State) where the incident described by the witness took place, this Court

does not have jurisdiction to enforce its decree in the State of Iowa.

3. If the incidents described by the witness had taken place in the Commonwealth of Virginia they would not be sufficient to prove that defendant Brotherhood was guilty of the unauthorized practice of law in the Commonwealth of Virginia. The defendant Brotherhood would have had a constitutional right, both state and Federal, to do the acts described by the witness.

[fol. 126] 4. The testimony does not prove that defendant Brotherhood is now carrying on in Virginia the practices as described by the witness.

5. The exhibit filed with the testimony is a written statement taken by a representative of either the Association of American Railroads or a local railroad. The exhibit could be used by the witness if it were made by him to refresh his memory when testifying, if he made the statement in question. It is not proper evidence in this case and should be excluded.

Brotherhood of Railroad Trainmen, By: Beecher E. Stallard, 1223-29 Cen. Natl. Bank Bldg., Richmond, Virginia.

Certificate of service (omitted in printing).

[fol. 127] [File endorsement omitted]

[fol. 128]

IN THE CHANCERY COURT OF THE CITY OF RICHMOND

[Title omitted]

MOTION TO STRIKE THE TESTIMONY OF CHARLES
WILLIAM CLARK, JR.—Filed January 23, 1962

To the Honorable Brockenbrough Lamb, Judge of Said Court:

The defendant Brotherhood moves the Court to strike out the testimony introduced by the plaintiff through Charles William Clark, Jr., and any exhibits filed therewith as evidence, for the following reasons:

1. The testimony of the witness to incidents taking place in the State of Pennsylvania is not relevant to prove the allegations of the bill of complaint, namely that the practices of defendant Brotherhood constitute the unauthorized practice of law in the Commonwealth of Virginia and the City of Richmond, and therefore, should be restrained by the Court.

2. If the defendant Brotherhood were guilty of the unauthorized practice of law in the State of Pennsylvania (and the defendant does not know what practices constitute the unauthorized practice of law in Pennsylvania State) where the incident described by the witness took place, this Court does not have jurisdiction to enforce its decree in the State of Pennsylvania.

3. If the incidents described by the witness had taken place in the Commonwealth of Virginia they would not be sufficient to prove that defendant Brotherhood was guilty of the unauthorized practice of law in the Commonwealth of Virginia. The defendant Brotherhood would have had a constitutional right, both state and Federal, to do the acts described by the witness.

[fol. 129] 4. The testimony does not prove that defendant Brotherhood is now carrying on in Virginia the practices as described by the witness.

5. The exhibit filed with the testimony is a written statement taken by a representative of either the Association of American Railroads or a local railroad. The exhibit could be used by the witness if it were made by him to refresh his memory when testifying, if he made the statement in question. It is not proper evidence in this case and should be excluded.

Brotherhood of Railroad Trainmen, By: Beecher E. Stallard, 1223-29 Cen. Natl. Bank Bldg., Richmond, Virginia.

Certificate of service (omitted in printing).

[fol. 130]

[File endorsement omitted]

[fol. 135]

IN THE CHANCERY COURT OF THE CITY OF RICHMOND

[Title omitted]

MOTION TO STRIKE THE TESTIMONY OF DEWEY C.
McLAUGHLIN—Filed January 23, 1962

To the Honorable Brockenbrough Lamb, Judge of Said Court:

The defendant Brotherhood, moves the Court to strike out the testimony introduced by the plaintiff through Dewey C. McLaughlin and any exhibits filed therewith as evidence, for the following reasons:

1. The testimony of the witness to incidents taking place in the State of Ohio is not relevant to prove the allegations of the bill of complaint, namely that the practices of defendant Brotherhood constitute the unauthorized practice of law in the Commonwealth of Virginia and the City of Richmond, and therefore, should be restrained by the Court.

2. If the defendant Brotherhood were guilty of the unauthorized practice of law in the State of Ohio (and defendant does not know what practices constitute the unauthorized practice of law in Ohio State) where the incident described by the witness took place, this Court does not have jurisdiction to enforce its decree in the State of Ohio.

3. If the incidents described by the witness had taken place in the Commonwealth of Virginia they would not be sufficient to prove that defendant Brotherhood was guilty of the unauthorized practice of law in the Commonwealth of Virginia. The defendant Brotherhood would have had a constitutional right, both state and Federal, to do the acts described by the witness.

[fol. 136] 4. The testimony does not prove that defendant Brotherhood is now carrying on in Virginia the practices as described by the witness.

5. The exhibit filed with the testimony is a written statement taken by a representative of either the American

Association of Railroads or a local railroad. The exhibit could be used by the witness if it were made by him to refresh his memory when testifying, if he made the statement in question. It is not proper evidence in this case and should be excluded.

Brotherhood of Railroad Trainmen, By: Beecher E. Stallard, 1223-29 Cen. Natl. Bank Bldg., Richmond, Virginia.

Certificate of service (omitted in printing).

[fol. 137]

[File endorsement omitted]

[fol. 138]

IN THE CHANCERY COURT OF THE CITY OF RICHMOND

[Title omitted]

MOTION TO STRIKE THE TESTIMONY OF CLIFFORD D. OLSON AND BETTY OLSON—Filed January 23, 1962.

To the Honorable Brockenbrough Lamb, Judge of Said Court:

The defendant Brotherhood, moves the Court to strike out the testimony introduced by the plaintiff through Clifford D. Olson and Betty Olson, and any exhibits filed therewith as evidence, for the following reasons:

1. The testimony of the witnesses to incidents taking place in the state of South Dakota is not relevant to prove the allegations of the bill of complaint, namely that the practices of defendant Brotherhood constitute the unauthorized practice of law in the Commonwealth of Virginia and the City of Richmond, and therefore, should be restrained by the Court.

2. If the defendant Brotherhood were guilty of the unauthorized practice of law in the State of South Dakota (and defendant does not know what practices constitute the unauthorized practice of law in South Dakota State) where the incident described by the witnesses, took place, this Court does not have jurisdiction to enforce its decree in the State of South Dakota.

3. If the incidents described by the witnesses had taken place in the Commonwealth of Virginia they would not be sufficient to prove that defendant Brotherhood was guilty of the unauthorized practice of law in the Commonwealth of Virginia. The defendant Brotherhood would have had a constitutional right, both state and Federal, to do the acts described by the witnesses.

[fol. 139] 4. The testimony does not prove that defendant Brotherhood is now carrying on in Virginia the practices as described by the witnesses.

5. The exhibit filed with the testimony is a written statement taken by a representative of either the Association of American Railroads or a local railroad. The exhibit could be used by the witness if it were made by him to refresh his memory when testifying, if he made the statement in question. It is not proper evidence in this case and should be excluded.

Brotherhood of Railroad Trainmen, By: Beecher E. Stallard, 1223-29 Cen. Natl. Bank Bldg, Richmond, Virginia.

Certificate of service (omitted in printing).

[fol. 140] [File endorsement omitted]

[fol. 141]

IN THE CHANCERY COURT OF THE CITY OF RICHMOND

[Title omitted]

MOTION TO STRIKE THE TESTIMONY OF PAUL A. HODGES—
Filed January 23, 1962

To the Honorable Brockenbrough Lamb, Judge of Said Court:

The defendant Brotherhood moves the Court to strike out the testimony introduced by the plaintiff through Paul A. Hodges for the following reasons:

1. The testimony of the witness to incidents taking place in the State of Illinois is not relevant to prove the allegations of the bill of complaint, namely that the practices of defendant Brotherhood constitute the unauthorized prac-

tice of law in the Commonwealth of Virginia and the City of Richmond, and therefore, should be restrained by the Court.

2. If the defendant Brotherhood were guilty of the unauthorized practice of law in the State of Illinois (and the defendant does not know what practices constitute the unauthorized practice of law in Illinois State) where the incident described by the witness took place, this Court does not have jurisdiction to enforce its decree in the State of Illinois.

3. If the incidents described by the witness had taken place in the Commonwealth of Virginia they would not be sufficient to prove that defendant Brotherhood was guilty of the unauthorized practice of law in the Commonwealth of Virginia. The defendant Brotherhood would have had a constitutional right, both state and Federal, to do the acts described by the witness.

[fol. 142] 4. The testimony does not prove that defendant Brotherhood is now carrying on in Virginia the practices as described by the witness. It is not proper evidence in this case and should be excluded.

Brotherhood of Railroad Trainmen, By: Beecher E. Stallard, 1223-29 Cen. Natl. Bank Bldg., Richmond, Virginia.

Certificate of service (omitted in printing).

[fol. 143]

[File endorsement omitted]

[fol. 144],

IN THE CHANCERY COURT OF THE CITY OF RICHMOND

[Title omitted]

MOTION TO DISMISS—Filed January 23, 1962

The Defendant Brotherhood moves the Court to strike the evidence of Plaintiff in this case on the ground that the Plaintiff has not proved that the Brotherhood is engaged in any unlawful practice or is engaged in the unauthorized practice of law in the Commonwealth of Virginia at the present time, nor has the Plaintiff proved that the

Brotherhood was engaged in any unlawful practice or in the unauthorized practice of law in the Commonwealth of Virginia at the time of the institution of this case, which was on June 29, 1959. 4

GROUND FOR SAID MOTION

1. The evidence shows that prior to April, 1959, the Defendant Brotherhood eliminated practices which Plaintiff alleged it was engaged in in the Commonwealth of Virginia, and which Plaintiff alleged constituted the unauthorized practice of law.

2. The practices in which the Defendant Brotherhood is now engaged in the Commonwealth of Virginia do not constitute the practice of law and Defendant has the legal right to make available to its member or their families, any information gathered as a result of its investigation, and in addition it has the right, and members of local lodges affiliated with it, has the right to inform members to consult or employ attorneys and doctors for the purpose of protecting their rights, and states that these rights are guaranteed to it and to members of local lodges by the Virginia Bill of Rights (Virginia Constitution 12) and secured by the 1st Amendment to the Constitution of the United States and guaranteed by the 14th Amendment to the Federal Constitution.

[fol. 145] 3. The evidence does not prove that the Defendant Brotherhood is now or has ever been guilty of the practice of law in the Commonwealth of Virginia, under the rules defining the practice of law.

4. An injunction is a preventative remedy and where the evidence shows that the Defendant Brotherhood has ceased committing the acts complained of, an injunction should be refused. (See Barton's Chan. Prac. 3d, page 603, Akers v. Mathieson, 151 Va. 1, Kwass v. Kersey, 139 W. Va. 497, commented on in 57 W. Va. Law. Rev. 101.)

Beecher E. Stallard, Counsel for the Brotherhood.

Certificate of service (omitted in printing).

[fol. 146]

[File endorsement omitted]

[fol. 147]

IN THE CHANCERY COURT OF THE CITY OF RICHMOND

[Title omitted]

ORDER OVERRULING MOTIONS TO STRIKE—

Entered January 23, 1962

This day came again the complainant and the defendant, Brotherhood of Railroad Trainmen, by counsel, and the said defendant presented its separate written motions (1) to strike exhibits filed with the testimony of William P. Kennedy, (2) to strike the testimony of Dewey C. McLaughlin, (3) to strike the testimony of Clifford D. Olson and Bette Olson, (4) to strike the testimony of Paul A. Hodges, (5) to strike the testimony of Charles William Clarke, Jr., (6) to strike the testimony of Kenneth H. Gibson, (7) to strike the testimony of Elmo S. Loman and Gloria M. Loman (8) to strike the testimony of Lawrence Edward Troxtell and Virginia Lee Troxtell, and (9) to strike all the evidence of the complainant and dismiss its suit, which said motions are hereby Ordered filed in this cause and were argued by counsel. On consideration whereof, each of said motions is overruled and denied to which action of the Court the said defendant excepted.

Thereupon, the said defendant further moved the Court for leave to file in evidence in this cause photocopies of two certain letters, one dated April 3, 1961, from Douglas W. Matthews to The Solicitor of the City Court of Cedartown, Cedartown, Georgia, and the other dated October 12, 1961, [fol. 148] from T. J. Lewis, Jr. to Mr. W. E. B. Chase, c/o Mr. Beecher Stallard, Central National Bank Building, Richmond, Virginia, and to strike from the evidence in this cause the testimony heretofore given by Mrs. Betty Ann Queen Doeg on October 10, 1961, to which the complainant objected on the grounds that the letters were not the best evidence of the matters therein set forth, that the writers thereof were not subject to cross-examination and that if admitted the complainant would be obliged to move the Court for leave to bring before the Court in person or by deposition the individuals referred to in said letters and such others as may be required to show to the Court that the matters therein set forth are not truly and cor-

rectly stated. Upon consideration whereof the motions to file the said letters and to strike the evidence of Mrs. Doeg are overruled and denied, to which the said defendant excepted.

I ask for this:

Beecher E. Stallard, Central National Bank Building, Richmond 19, Virginia, Counsel for the Defendant, Brotherhood of Railroad Trainmen.

Seen:

Aubrey R. Bowles, III, 901 Mutual Building, Richmond 19, Virginia, Counsel for the Complainant.

[fol. 149] [File endorsement omitted]

[fol. 150]

IN THE CHANCERY COURT OF THE CITY OF RICHMOND

COMMONWEALTH OF VIRGINIA, ex rel.,
VIRGINIA STATE BAR, Complainant,

v.

BROTHERHOOD OF RAILROAD TRAINMEN, et als., Defendants.

FINAL DECREE AWARDING INJUNCTION—
Entered January 29, 1962

This cause came on this day to be finally heard upon the papers formerly read; upon the exhibits filed; upon the depositions filed; upon the transcript of the evidence heard orally in open court, authenticated by the judge and now made a part of the record; and was argued by counsel.

Upon consideration whereof the court finds the following facts:

The defendant Brotherhood in 1930 adopted a plan designed to make available to its members, and the families of its deceased members, the professional services of attorneys selected by the Brotherhood to represent them in claims for personal injury or death arising out of railroad service.

In order to implement this plan the Brotherhood established at its Grand Lodge a "Legal Aid Department" (re-

named on January 1, 1959, "Department of Legal Counsel"), divided the United States into Regions, and entered into agreements with certain attorneys at law selected by the Brotherhood in each Region, called Regional Counsel (on and after January 1, 1959, called Legal Counsel).

The defendant Brotherhood assigned one or more "Regional Investigators" to each such counsel, who were paid by the Brotherhood.

[fol. 151] The operation of this plan has from its inception resulted, and still results, in channeling all, or substantially all, claims for personal injury to, or death of, members into the hands of such Regional (or Legal) Counsel.

In furtherance of the plan the defendant Brotherhood has advised, and continues to advise, its members and the families of deceased members with respect to the legal aspects of their claims; has held out, and continues to hold out, Regional (or Legal) Counsel as the only lawyers approved by the Brotherhood to aid its members and their families; has controlled, and continues to control, directly or indirectly, the fees to be charged by such counsel to its members and their families; has furnished to such counsel prompt notice of the injury or death of a member in railroad service for the purpose of aiding such counsel in obtaining legal employment by its members and their families; has solicited, and continues to solicit, the handling of such claims by such counsel; has paid the salaries of the Regional Investigators (whose chief function is to solicit legal employment of such counsel to prosecute such claims), has advised, and continues to advise, members and the families of deceased members that the Regional (or Legal) Counsel will defray expenses and make advances during the pendency of claims; has accepted, both directly and indirectly, a share of the counsel's fees; and has countenanced the sharing of the fees of such counsel by the Regional Investigators and others who procure legal employment for such counsel.

Various courts throughout the several States in which the practices of the defendant Brotherhood have been subjected to inquiry have reached similar findings of facts and have enjoined the continuance of such practices by

the defendant Brotherhood and its Regional (Legal) Counsel.

[fol. 152] The defendant Brotherhood has made protestations on occasions prior to April 1, 1959, that it would discontinue the objectionable aspects of the plan and has from time to time made protestations that it has done so; yet it is admitted in the Brotherhood's answer that these practices continued up to April 1, 1959.

The court finds that the defendant Brotherhood still adheres to the pattern and design of the plan formulated and implemented in 1930.

And the court finds that there is reasonable ground for apprehension that this plan and course of conduct will, in furtherance of the defendant Brotherhood's avowed purpose, be adopted and put into effect in the City of Richmond, within the jurisdiction of this court.

Wherefore, the court doth Adjudge, Order and Decree that the Brotherhood of Railroad Trainmen, its officers, agents, servants and employees, and its members acting in its behalf; be, and they are now, enjoined from in any manner, directly or indirectly, engaging in the practices aforesaid in the Commonwealth of Virginia; and, in particular, from giving or furnishing legal advice to its members or their families; from holding out lawyers selected by it as the only approved lawyers to aid the members or their families; from informing any lawyer that an accident has occurred and furnishing the name and address of an injured or deceased member for the purpose of obtaining legal employment for such lawyer, or in any other manner soliciting or encouraging such legal employment of the selected lawyers; from stating or suggesting that such selected lawyers will defray expenses and make advances to clients pending settlement of claims; from controlling, directly or indirectly, fees charged or to be charged [fol. 153] by any lawyer; from making compensation for the solicitation of legal employment for any lawyer, whether by way of salary, commission or otherwise; from in any manner sharing in the legal fees of any lawyer, or countenancing the splitting of such fees with any layman or lay agency; and from doing any act or combination of acts, and from formulating and putting into practice any

plan, pattern or design, the result of which is to channel legal employment to any particular lawyer or group of lawyers; and, in general, from violating the laws governing the practice of law in the Commonwealth of Virginia.

It is further Ordered that the complainant recover of the defendant Brotherhood its-costs in this suit as taxed by the clerk.

The complainant being a person from whom, in the opinion of the court, it would be improper to require bond, the court requires no injunction bond and this injunction is in force immediately.

The Brotherhood of Railroad Trainmen will be put upon notice of the provisions of this decree by acceptance of service of an attested copy by its counsel of record in this suit and in conformity with the request of counsel for the complainant it is further Ordered that a certified copy of this decree be served on the secretary of each subordinate lodge of the defendant Brotherhood in the Commonwealth of Virginia.

To all of the provisions of this decree the defendant objected and excepted.

The objects for which this suit was instituted having been fully accomplished, it is Ordered that the cause be stricken from the docket and the papers placed amongst the ended causes, properly indexed, with leave [fol. 154] reserved to any party to have the suit reinstated for good cause shown and after such notice as the court may require.

We ask for this:

Aubrey R. Bowles, Jr.; Aubrey R. Bowles, III, 901 Mutual Building, Richmond 19, Virginia, Attorneys for the Complainant.

Seen and object:

Beecher E. Stallard, Central National Bank Building, Richmond, Virginia, Attorney for the Defendant, Brotherhood of Railroad Trainmen.

[fol. 155]

[File endorsement omitted]

[fol. 164]

IN THE CHANCERY COURT OF THE CITY OF RICHMOND

[Title omitted].

NOTICE OF APPEAL AND ASSIGNMENTS OF ERROR OF DEFENDANT BROTHERHOOD OF RAILROAD TRAINMEN—Filed March 7, 1962

The Defendant Brotherhood of Railroad Trainmen, gives Notice of Appeal from a Final Decree Awarding an Injunction, by the Court herein on January 29, 1962, and assigns the following errors as required by Rule 5:1 §4 of the Supreme Court of Appeals of Virginia:

1. The Court erred in overruling the written motion of Defendant Brotherhood at the conclusion of all the evidence to strike the evidence of Complainant and to dismiss bill of complaint, and further erred in its failure to rule that the Brotherhood had a right to inform its members to consult or employ attorneys and that this right was guaranteed to the Brotherhood and to its members by Section 12 of the Constitution of Virginia, and secured by the First Amendment of the United States Constitution, and guaranteed by the Fourteenth Amendment of said Constitution.

2. The Court erred in awarding an injunction against the Defendant Brotherhood over its objections and exceptions.

3. The Court erred in its findings of fact against the Defendant Brotherhood in the following:

[fol. 165] (a) In order to implement this plan the Brotherhood established at its Grand Lodge a "Legal Aid Department" (renamed on January 1, 1959, "Department of Legal Counsel") divided the United States into regions and entered into agreements with certain attorneys at law, selected by the Brotherhood in each region, called Regional Counsel (on and after January 1, 1959, called Legal Counsel);

(b) The Defendant Brotherhood assigned one or more "Regional Investigators" to each such counsel, who were paid by the Brotherhood;

(c) The operation of this plan has from its inception resulted, and still results, in channeling all, or substantially all, claims for personal injury to or death of members into the hands of such Regional (or Legal) Counsel;

(d) In furtherance of the plan the Defendant Brotherhood has advised, and continues to advise, its members [fol. 166] and the families of deceased members with respect to the legal aspects of their claims;

(e) has held out, and continues to hold out, Regional (or Legal) Counsel as the only lawyers approved by the Brotherhood to aid its members and their families;

(f) has controlled, and continues to control, directly or indirectly, the fees to be charged by such counsel to its members and their families;

(g) has furnished to such counsel prompt notice of the injury or death of a member in railroad service for the purpose of aiding such counsel in obtaining legal employment by its members and their families;

(h) has solicited, and continues to solicit, the handling of such claims by such counsel;

(i) has paid the salaries of the Regional Investigators (whose chief function is to solicit legal employment of such counsel to prosecute such claims);

[fol. 167] (j) has advised, and continues to advise, members and the families of deceased members that the Regional (or Legal) Counsel will defray expenses and make advances during the pendency of claims;

(k) has accepted, both directly and indirectly, a share of the counsel's fees;

(l) and has countenanced the sharing of the fees of such counsel by the Regional Investigators and others who procure legal employment for such counsel;

(m) Various courts throughout the several States in which the practices of the defendant Brotherhood have been subjected to inquiry have reached similar find-

ings of facts and have enjoined the continuance of such practices by the defendant Brotherhood and its Regional (or Legal) Counsel;

(n) The defendant Brotherhood has made protestations on occasions prior to April 1, 1959, that it would discontinue the objectionable aspects of the plan and has from time to time made protestations that it has done so; yet it is admitted in the Brotherhood's answer [fol. 168] that these practices continued up to April 1, 1959;

(o) The court finds that the Defendant Brotherhood still adheres to the pattern and design of the plan formulated and implemented in 1930;

(p) The court finds that there is reasonable grounds for apprehension that this plan and course of conduct will, in the furtherance of Defendant Brotherhood's avowed purpose, be adopted and put into effect in the City of Richmond, within the jurisdiction of this court.

4. The Court erred in enjoining the Defendant Brotherhood, its officers, agents, servants and employees, and its members acting in its behalf:

(a) From in any manner, directly or indirectly, engaging in the practices aforesaid in the Commonwealth of Virginia;

(b) from giving or furnishing legal advice to its members or their families;

(c) from holding out lawyers selected by it as the only approved lawyers to aid the members of their families;

(d) from informing any lawyer that an accident has occurred and furnishing the names and addresses of a deceased member for the purpose of obtaining legal employment for such lawyer, or in any other manner [fol. 169] soliciting or encouraging such legal employment of the selected lawyers;

(e) from stating or suggesting that such selected lawyers will defray expenses and make advances to clients pending settlement of claims;

(f) from controlling, directly or indirectly, fees charged or to be charged by any lawyer;

(g) from making compensation for the solicitation of legal employment for any lawyer, whether by way of salary, commission or otherwise;

(h) from in any manner sharing in the legal fees of any lawyer, or countenancing the splitting of such fees with any layman or lay agency;

(i) from doing any act or combination of acts, and from formulating and putting into practice any plan, pattern or design, the result of which is to channel legal employment to any particular lawyer or group of lawyers;

(j) from violating the laws governing the practice of law in the Commonwealth of Virginia.

[fol. 170] 5. The Court erred in refusing to strike the testimony introduced by Complainant of the following witnesses and exhibits filed therewith:

(a) Lawrence Edward Troxtell and Virginia Lee Troxtell;

(b) Clifford D. Olson and Betty Olson;

(c) Dewey C. McLaughlin;

(d) Kenneth H. Gibson;

(e) Elmo S. Loman and Gloria M. Loman;

(f) Charles William Clark, Jr.;

(g) Paul Hodges;

(h) Mrs. Neal (Estelle) Wills; Betty Ann Queen Doeg; Mary Ann Wills and Harold Wills.

6. The Court erred in refusing to strike out the exhibits filed with the testimony of William P. Kennedy and marked as follows:

"Complainant Exhibit K-1"

"Complainant Exhibit K-2"

"Complainant Exhibit K-3"

"Complainant Exhibit K-4"

"Complainant Exhibit K-5"

"Complainant Exhibit K-6"

"Complainant Exhibit K-7"

7. The Court erred in permitting Robert A. Nelson, Assistant Attorney General for the State of Nebraska, to testify "as to the circumstances under which" he visited the Brotherhood's Office in Cleveland, Ohio, and to describe what took place in the proceedings in the Case of State, Ex rel. Beck in the State of Nebraska.

[fol. 171] The Court erred in permitting Robert A. Nelson to identify certain exhibits bearing initials (L & L) and assuming that the initials stood for Lewis & Lewis, and making certain other identifications, assumptions and deductions in his testimony and to comment upon and explain evidence which had been introduced in the case of State, ex rel. Beck in the State of Nebraska.

8. The Court erred in permitting Complainant to introduce Plaintiff's Exhibits 17, 21, 22 and 23 over Defendant's objection.

9. The Court erred in permitting Mrs. Neal Wills to testify with reference to a visit made by B. G. Byrington and Tom Lewis, Jr., to her home and to recite the conversation of Byrington and Lewis with her daughter.

10. The Court erred in permitting Complainant to introduce Byrington Exhibit A, which is a record of the case of State of Georgia v. B. G. Byrington.

11. The Court erred in permitting Complainant to introduce Plaintiff's Exhibit 78, which is a copy of a deposition of C. B. Maher, in the case of Southern Pacific Company v. Clifton Hildebrand, et al., in Superior Court, Los Angeles County, State of California.

12. The Court erred in not permitting Defendant Brotherhood to file in evidence letter dated April 3, 1961, from Douglas W. Matthews, to the solicitor of the City Court of Cedartown, Georgia, and another letter dated October 12, 1961, from T. J. Lewis, Jr. to W. E. B. Chase, c/o Beecher E. Stallard, and to strike from the evidence the testimony given by Mrs. Betty Ann Queens Doeg on October 10, 1961.

13. The Court erred when it permitted Complainant to introduce a photostat copy of a letter purportedly mailed to [fol. 172] certain affiliated lodges of the Defendant Brotherhood by its President W. P. Kennedy, after both Complainant and Defendant had completed the taking of all evidence weeks prior thereto, and had rested their case.

Brotherhood of Railroad Trainmen, By: Beecher E. Stallard, 1223-29 Cen. Natl. Bank Bldg., Richmond, Virginia.

Certificate of service (omitted in printing).

[fol. 173]

[File endorsement omitted]

[fol. 174]

IN THE CHANCERY COURT OF THE CITY OF RICHMOND

[Title omitted]

NOTICE OF APPEAL AND ADDITIONAL ASSIGNMENTS OF ERROR
OF DEFENDANT BROTHERHOOD OF RAILROAD TRAINMEN—

Filed March 29, 1962

The Defendant, Brotherhood of Railroad Trainmen, gives notice of appeal from the judgment of the court rendered herein on January 29, 1962, in addition to the Assignments of Error heretofore filed, assigns the following error, as required by Rules of the Supreme Court, 5.1(4) and marks said assignment as Paragraph 14:

14. The Court erred in entering the decree of January 29, 1962, and thereby failing to rule that the Brotherhood had the right to represent its members by virtue of the Federal Railway Labor Act (45 U.S.C.A., Sec. 151-164).

Brotherhood of Railroad Trainmen, By: Beecher E.
Stallard, 1223-29 Cen. Natl. Bank Bldg., Richmond,
Virginia.

Certificate of service (omitted in printing).

[fol. 175] Clerk's Certificate to foregoing transcript
(omitted in printing).

[fol. 177]

IN THE SUPREME COURT OF APPEALS OF THE
COMMONWEALTH OF VIRGINIA
RICHMOND

ORDER REFUSING APPEAL AND SUPERSEDEAS—June 12, 1962

The petition of Brotherhood of Railroad Trainmen for an appeal and supersedeas from a decree entered by the Chancery Court of the City of Richmond on the 29th day of January, 1962, in a certain chancery cause then therein depending, wherein Commonwealth of Virginia, ex rel., Virginia State Bar, was plaintiff and the petitioner and others were defendants, having been maturely considered and a transcript of the record of the decree aforesaid seen and inspected, the court being of opinion that the said decree is plainly right, doth reject said petition, and refuse said appeal and supersedeas, the effect of which is to affirm the decree of the said chancery court.

[fol. 177a]

[File endorsement omitted]

[fol. 178]
 VIRGINIA:

IN THE CHANCERY COURT OF THE CITY OF RICHMOND

COMMONWEALTH OF VIRGINIA, ex rel.
 VIRGINIA STATE BAR,

vs.

BROTHERHOOD OF RAILROAD TRAINMEN.

ORDER DENYING PETITION FOR REHEARING

The following attested copy of an order of the Supreme Court of Appeals of Virginia was this day received and is now entered here:

Then spread Brotherhood etc. v. Com. Va.
 beginning "Virginia" and ending with "Clerk"

[fol. 179]

IN THE SUPREME COURT OF APPEALS OF THE
 COMMONWEALTH OF VIRGINIA
 STAUNT

BROTHERHOOD OF RAILROAD TRAINMEN, Appellant,
 against

COMMONWEALTH OF VIRGINIA, ex rel.
 VIRGINIA STATE BAR, Appellee.

ORDER DENYING PETITION TO SET ASIDE DECREE—
 August 31, 1962

Upon a Petition to Rehear

On mature consideration of the petition of the appellant to set aside the decree entered herein on the 12th day of June, 1962, and grant a rehearing thereof, the prayer of the said petition is denied.

[fol. 179a] [File endorsement omitted]

[fol. 181] Clerk's Certificate to foregoing transcript
 (omitted in printing).

[fol. 182] — [File endorsement omitted]

IN THE CHANCERY COURT OF THE CITY OF RICHMOND, VIRGINIA

COMMONWEALTH OF VIRGINIA, ex rel., Virginia State Bar,
Complainant,

V.

BROTHERHOOD OF RAILROAD TRAINMEN et al., Defendants.

Deposition of William P. Kennedy—June 1, 1961

Deposition of WILLIAM P. KENNEDY, taken as if under cross-examination, before William E. Ferris, a Notary Public within and for the State of Ohio, at the offices of Messrs. Arter, Hadden, Wykoff & Van Duzer, 1144 Union Commerce Building, Cleveland, Ohio, at 9:30 a.m. Thursday, June 1, 1961, pursuant to notice, to be read in evidence upon the trial of the above-entitled action.

APPEARANCES:

Mr. Aubrey R. Bowles, Jr., and Mr. Aubrey R. Bowles, III, For the Complainant;

Mr. Beecher E. Stallard; and Messrs. Henslee & Henslee, by Mr. E. B. Henslee, Jr., For Defendant Brotherhood of Railroad Trainmen.

[fol. 183]

STIPULATION

It was stipulated by and between counsel for complainant and Defendant Brotherhood of Railroad Trainmen that all requirements of statutes with regard to the reading and signing of this deposition by the witness are waived.

WILLIAM P. KENNEDY, of lawful age, called by the complainant for the purpose of cross-examination, as provided by statute, being by me duly sworn, as hereinafter certified, deposed and said as follows:

Cross examination of William P. Kennedy.

By Mr. Bowles, Jr.:

Q. Mr. Kennedy, state your full name and address and what you do, please.

A. My name is William P. Kennedy.

Q. The "P" stands for Park?

A. Parker. I am President of the Brotherhood of Railroad Trainmen with headquarters in the Standard Building, Cleveland, Ohio.

Q. Mr. Kennedy, you have been President since, I believe, in July of 1949?

A. That is correct.

Q. When did you first become a member of the Brotherhood?

[fol. 184] A. 51 years ago.

Q. And when did you first go into lodge work?

A. 50 years ago.

Q. How long did you work actually as a trainman, about a year?

A. I worked as a trainman from 1909 until 1919.

Q. Well, have you done any actual work as a trainman since then or has it all been engaged in lodge work?

A. I have been an officer of the Brotherhood continuously since 1919.

Q. I believe you were Secretary and Treasurer of the Grand Lodge from '47 to '49?

A. That is correct.

Q. And you were Vice President of the western part of the United States from '36 to '47, I believe?

A. That is correct.

Q. And you were Chairman, General Chairman of the Milwaukee Railroad, Eastern Division, from April, 1921, until 1936?

A. That is correct.

Q. And you were Local Chairman from 1910 until 1921, I believe?

A. That is correct.

Q. And I believe, sir, that you are a member of Lodge Number 625 of Minneapolis, Minnesota, the W. P. Kennedy Lodge?

[fol. 185] A. That is correct.

Q. Since 1919, you say you have been a full time officer of the Brotherhood?

A. Yes, sir.

Q. Can you tell me, please, sir, when the Legal Aid Department was originally set up?

A. The Legal Aid Department of the Brotherhood was originally set up in 1930, I believe, would be about as close a date as we could—

Q. It was set up by the President, I believe, the then President, under the authority of Article 9 and Article 91 of your Constitution?

A. Yes, it was set up by Alexander Whitney.

Q. Article 9 relates to the powers of the President, I believe, and Article 91 relates to the powers and duties of the Secretaries of local lodges?

A. Yes, sir.

Q. And those two papers have been filed in this proceeding as Exhibit Number 1 and 2—it's the same thing, I think, but they are different editions of your Constitution—with the first and second call for documents. I think that's correct.

Mr. Stallard: That's defendant's exhibits, I believe.

Q. Under Article 91 in your Constitution there are certain statements made that are called rulings under Section 91, and in regard to those three portions of the Constitution that I have mentioned it is specified that the President has the power to run and does actually run and did run the Legal Aid Department and your present Department of Legal Counsel. I believe that's correct, is it not?

A. That is correct; subject to, of course, the mandates of the succeeding Conventions.

Q. From convention to convention?

A. That is correct.

Q. Yes. Now, President Kennedy—that's an interesting way to speak of you.

A. Yes, in this day and age it is.

(Discussion, off the record.)

Q. Now, the powers conferred by these references I have made to your Constitution confer on the President the authority to appoint Regional Counsel or did when you called them Regional Counsel?

A. Yes, sir.

Q. And it now confers on you the authority to appoint legal counsel since your change in April of 1959?

A. That is correct.

Q. And it also gave the President the power to appoint Regional Investigators?

A. At one time that was correct.

[fol. 187] Q. And now it confers on you the power to appoint Regional Investigators now?

A. Not necessarily Regional Investigators. I would say it gives me the power to appoint an Investigator.

Q. I think you call them now Brotherhood of Railroad Trainmen Investigators?

A. They would be out of my Central Office in Cleveland, Ohio.

Q. Yes. Now, this department as it is now called, I believe, the Department of Legal Counsel, and prior to 1959 was named the Legal Aid Department, is wholly under your control as President of the Brotherhood?

A. Yes, sir.

Q. All of these people that you appoint, the Regional Counsel, and Investigators when you appoint them, serve at your pleasure, I believe?

A. That is correct.

Q. You have the power to remove them, to appoint someone to succeed them?

A. In the course of our work in the Brotherhood of Railroad Trainmen, because of such a vast membership, we are

continuously appointing legal representatives of our Brotherhood because of the various particular cases that may arise in different sections of the country that involve us as a labor organization.

Q. I can understand that. Now, when you became President [fol. 188] in, I believe, 1949—

A. That is correct.

Q. —you were not bound as the incoming President to reappoint any of the persons then holding office under your Constitution?

A. Not necessarily.

Q. Now, you did continue everybody that was then in office, I believe?

A. That is correct, I did.

Q. You didn't have to, however?

A. No.

Q. And I take it that your successor will not have to reappoint the people who are now serving when you go out of office?

A. That would be his judgment at that time.

Q. It's sort of like the other President Kennedy, he can or cannot reappoint the Ambassadors?

A. Yes, I think that's the procedure in a democracy such as we enjoy.

Q. Yes, I understand. Now, I want to discuss with you, if I may, the system of the operation of the Legal Aid Department in three separate periods. The first period to which I am directing my questions is the period from the beginning of its organization in 1930 until the time that you became President in 1949. That would be the period during [fol. 189] which President Whitney was President of the organization, I believe, is that correct?

A. That is right.

Q. In the beginning or near the beginning of the department there were certain rules and regulations that were inaugurated which have been supplied and are referred to as Exhibit 3 with the first call for documents. I think that this was the result, as I understand it, of a convention and a kind of a questionnaire or something that was sent out to all the membership and it was established with the approval and agreement of everybody.

A. After the Legal Aid Department was initiated, there were, of course, many questions asked and they were usually answered in the conventions so that everybody had an understanding as to how things were being handled.

Q. Now, these rules and regulations had to be agreed to and understood and approved by each Regional Counsel that was appointed at the time?

A. At that time, yes.

Q. Beg pardon?

A. That is correct.

Q. He had to accept them and say that he would abide by them?

A. That is correct.

Q. And the ones that have been filed here are, I think, [fol. 190] the same rules and regulations that originally were approved by Mr. Savage, I believe, in the district comprising Maryland, West Virginia, Virginia, and the District of Columbia.

A. That would be true in Mr. Savage's territory at that time.

Q. There has been filed in the proceeding so far as an Exhibit 3 (b) with the second call Mr. Savage's letter of February 6, 1937, which is his acceptance of these rules and regulations. Now, it is my understanding, sir—I am phrasing my questions this way, because I think we can save time, and if I make a misstatement, please correct me—that the fee arrangement which was in effect between Regional Counsel and the Brotherhood in representation of members of the Brotherhood for personal injury and death claims went through in this period various changes to what they were. As best I can make out, the first arrangement was a 20-percent fee. The Regional Counsel agreed that he would charge the member no more than 20 percent; and of that 5 percent was turned over to the Brotherhood in the beginning, I think. That's the plan that was set up, I think.

A. Well, I'd say we had so many attorneys that were charging the injured men such ridiculous amounts that we had a difficult time trying to find what would be a fair and

[fol. 191] reasonable amount. Some attorneys said that they would charge 20 percent and others said they wanted to charge 25 percent, and I think we eventually agreed at that time—and that was back in Mr. Whitney's administration that 25 percent was approximately a reasonable figure.

Q. Well, now, that 25 percent remained pretty nearly static so far as what the member was charged during that period, I think.

A. That remained in effect until I made a request before the Supreme Court of the State of Illinois for a clarification of what we could do and what we couldn't do.

Q. I so understand. Now, the point that I am addressing my attention to, however, is that 25 percent, the division of it between the Regional Counsel and the Brotherhood for the maintenance of the Legal Aid Department varied somewhat through that period, as I understand it?

A. It may have fluctuated a little here and there. However, when I became President I didn't feel that that type of a fee was appropriate for the occasion.

Q. I understand, sir. But, now, I gather from what has been produced here by way of documents and one thing or another that there was 20 percent retained by the Regional Counsel at one time and 5 percent of the 25, 5 percent of the whole, being one-fifth of the 25 percent, was turned over to the Brotherhood. At a later time there was [fol. 192] an arrangement, I believe, in which 20 percent was retained by counsel and the agreement of the member sent the 5 percent direct to the Brotherhood, so that it did not go through the hands of Regional Counsel?

A. There were various programs in effect prior to my administration that varied from time to time.

Q. That is the point I was trying to bring out. Now, generally speaking, is it not true that the way that actually operated, that that 25 percent fee charged to the member by Regional Counsel was prorated; nothing was done about that, but that Regional Counsel received an assessment annually based on the ratio of each individual Regional Counsel's gross take during the year to the gross of all Regional Counsel?

A. I think at that time the procedure was to charge once each year to the individual Regional Counsel a prorata

assessment in accordance with the volume of business that he produced during that particular year.

Q. That is my understanding. Now, I believe that Regional Counsel themselves were assessed to set up this department in the beginning?

A. I wouldn't say that that's correct. I would say that the Brotherhood of Railroad Trainmen set it up and later the Regional Counsel were assessed, but originally it was set up by Brotherhood funds exclusively.

[fol. 193] Q. And then later Regional Counsel baled out those funds?

A. Later.

Q. Out of that contribution?

A. That possibly was true.

Q. Now, Regional Counsel have also on occasions contributed to the expenses of the conventions in proportion to the amount of time devoted to discussing legal aid matters, I believe?

A. No, sir, that's not correct.

Q. Have they not contributed to the expense of conventions?

A. No, sir, they have not, to my knowledge.

Q. I believe in a prior deposition that you gave that you have agreed that that was a fact, I think, if I read correctly.

A. No, that wouldn't be a correct statement. The Legal Counsel for our Brotherhood are individuals that may not necessarily be involved in any way in the Legal Aid Department, and we couldn't—

Q. I am not talking about what's done now, I am talking about what was done back in this earlier period.

A. Well, over the early period we had any number of Legal Counsel in different sections of the country that had no relationship whatsoever with the Legal Aid Department. As a matter of fact, they didn't handle personal injury cases, they handled the business of the Brotherhood. They [fol. 194] handled injunctions, Federal injunctions, State injunctions, all kinds of court procedures. Those individuals had nothing whatever to do with the participation of the Legal Department of the Brotherhood.

Q. Well, what is it that you had reference to in your prior deposition about contributions based on the expenses of the convention? What is that situation?

A. Prior to my administration, I think it was a procedure that they had followed that certain costs would be allocated to Legal Aid representatives for costs of conventions.

Q. Well, that's what I had in mind. Only to the Regional Counsel.

A. But I couldn't testify a great deal to that procedure, because I knew very little about it.

Q. Now, under the Constitution, Section 91, it is the duty of the Secretary of the Local Lodge to report immediately on any accident that occurs to a member, I believe?

A. That's correct.

Q. Now, I am still talking about this period prior to the time you became President. That report was automatically then, under that system sent to Regional Counsel and to the Regional Investigators, I believe?

A. I wouldn't know exactly what the procedure was. I will say that the origination of the report in the first instance was for the purpose of gathering statistical evidence [fol. 195] for us to use before the Interstate Commerce Commission in the prevention of accidents on various railroads of the United States.

Q. Well, do you know anything about how that operated in this period prior?

A. No. No, I didn't go into detail on that.

Q. Do you know whether or not the Regional Investigators carried contracts for Regional Counsel?

A. Oh, I think they did, because when I went to the Illinois Supreme Court, I agreed that I had found that they had contracts.

Q. And you also found that there had been payments to Local Lodge members for taking people to see Regional Counsel?

A. I had found that there were discrepancies in many instances.

Q. Now, Mr. Kennedy, I want to talk about the operation of the system in the second period, which would be the

time in which you became President up until 1959, and I am somewhat at a loss to select what date in '59, whether January the 1st, April the 1st, or July the 1st, but we will get to that in a moment.

A. Yes.

Q. '59 is sufficient for the moment. Now, you made no changes in the personnel of the Legal Aid Department at [fol. 196] that time when you became President?

A. I didn't make any immediate changes. I started, however, an investigation.

Q. I believe that the Legal Aid Department had been operated, the mechanical functions of it, first by a man called a clerk, whose name was Steve Lush, I think. That was in the original.

A. Well, I would say that that's not a correct statement. It was operated by individuals long before Steve Lush ever was appointed.

Q. Well, he was not the first one?

A. No, sir.

Q. He was not in office when you became President?

A. No, he was not.

Q. Well, he was, in all events, suggested by someone named Lee, I believe. Pinky Lee, I think they called him.

A. Oh, yes. Lee.

Q. And when you became President, it was Mr. Maher?

A. Maher. Bob Maher.

Q. C. R. Maher?

A. Yes.

Q. Now, you kept the same Regional Counsel at the time when you became President?

A. For the period of time, yes.

Q. And you kept the same Regional Investigators? [fol. 197] A. No, sir—well, I may have done that, because that would automatically go with the Counsel while I was conducting my investigation.

Q. I don't see the point of taking up the time to point out to you that in the more particulars that were furnished by the Respondent Brotherhood certain practices have been admitted in the prior period—

A. Yes.

Q. Under Paragraphs A, B, C, D, E, and F. You are familiar with what has been filed in that respect?

A. Yes.

Q. And in the answer in Paragraphs 6 and 7. And I understand that you have read those and that I think you stated on a previous occasion that Mr. Stallard was authorized to file those things and to speak for the Brotherhood on that occasion in the Virginia proceeding?

A. Yes, sir.

Q. Now, the questions which I propound to you now are related to how the system operated after 1959. What prompted this change or your idea to change it?

A. My investigation as to the operation of the so-called Legal Aid Department brought about my desire to bring about necessary changes that I felt should be made in order to keep the good name of the Brotherhood of Railroad Trainmen highly in a respectable condition.

[fol. 198] Q. I think—and I quote—Mr. Kennedy, that you have made this statement before in answer to this question. “Q. So that, at least, as of May, 1957, this was the arrangement with Regional Counsel?” And the “this” being referred to were these practices that we have referred to in the answers filed in the more particulars. And you answered, “Yes. That arrangement is what prompted me to go to the Supreme Court of Illinois.”

A. Yes, sir.

Q. You have just said that your investigation revealed these matters and that you decided you would go there?

A. And I was not satisfied with the procedure that I found existing throughout the United States.

Q. Now, you went there to seek a declaratory judgment in 1955, I believe?

A. It was a unique procedure, I will have to agree on that, but I asked the Supreme Court of the State of Illinois for a clarification of what I could do and what the Brotherhood could do and what we couldn't do under the existing laws.

Q. How long had your investigation been going on?

A. About six years.

Q. From the moment that you became President?

A. From the time I became President until I started to work on the proposition of submitting this to the Supreme [fol. 199] Court of Illinois. In the first place, it took me a considerable amount of time to ascertain how I could bring about a so-called official clarification. I had in mind going to the Supreme Court of the United States. I had in mind going to some Federal Judge. I had in mind going to the Supreme Court of individual States. I finally came to the conclusion that a considerable amount of so-called Legal Aid business was handled in the State of Illinois on account of it being a centrally populated State and so I then agreed that I would ask the Supreme Court of the State of Illinois if they would not give me the clarification that I requested as to what a labor organization could do in the protection of its employees and its members and what we could not do, as I wanted to handle the matter in accordance with the legal procedure.

Q. Of course, Mr. Kennedy, we lawyers are very familiar with the procedure of declaratory judgment.

A. Yes.

Q. And you had legal advice in your investigations, I take it, in pursuing these various remedies that you might find?

A. That is correct.

Q. Who were you advised by?

A. I was advised by Mr. E. B. Henslee, my General Counsel at that time.

Q. He was General Counsel of the Grand Lodge at that [fol. 200] time, I believe?

A. Yes, sir.

Q. Was there any particular thing—

A. That's present Mr. Henslee's father, who is now deceased.

Q. I understand that. Well, was there any particular thing that precipitated the particular action that you took at the particular time?

A. Yes, there was a number of instances occurred. In the first place, I found that some of our attorneys were charging different fees. I found that outside attorneys that had no relation to the Brotherhood were charging ridiculous fees. I found out in the procedure that railroad claim agents

were using our members in the settlement of cases that were outrageous, in my opinion. I found that different groups of attorneys in different States were condemning our Brotherhood because of certain practices that we are in, and I felt that we either had to do one of two things: We either had to get some form of a clarification or I would liquidate the so-called Legal Aid Department and wipe it off the books of the Brotherhood unless I could get some court of competent jurisdiction to give me a clarification that I was looking for.

Q. Well, among those instances that you referred to, did you know at the time that the Philadelphia Bar Association [fol. 201] had complained to the Cleveland Bar Association that Mr. Edward B. Henslee, Jr., was soliciting personal injury claims in Pennsylvania in 1953?

A. That may have been possible. I wouldn't say that that's not a true statement.

Q. In 1954, was not a complaint filed against Henslee, Sr., Henslee, Jr., Monek & Murray, and the Committee under Rule 28 instituted a proceeding against those gentlemen before the Cleveland Bar Association?

Mr. Henslee: Chicago Bar.

A. I wouldn't know about the Cleveland Bar. I am not so familiar with any action taken in the State of Ohio.

Q. I beg your pardon. I meant to say the Chicago Bar.

A. Oh, you are right. You are correct, before the Chicago Bar.

Q. I am very sorry, sir. Now, then, in 1955, it was Mr. Henslee, Sr., who filed the motion for declaratory judgment in the name of the Brotherhood, as you have said, to clarify these matters?

A. Yes, sir.

Q. That was referred, I believe to a Special Master in June of 1956?

A. It was referred to—I think the Court itself referred that to a particular Judge to hear the evidence.

Q. For an investigation?

[fol. 202] A. Yes, sir.

Q. And hearings were held in that investigation, I believe?

A. Yes, sir.

Q. And on May the 23rd, 1958, the judgment came down and is recorded in 13 Ill. (2d) 391 and 150 NE (2d) 163, and that's what we referred to, as I presume, as the Illinois decision?

A. That was the unanimous decision of the Illinois Court.

Q. Now, just about that time or shortly before that decision, the General Assembly—I don't know what you call it in Illinois, the Legislature—passed an anti-solicitation statute, did it not?

A. I think that they passed some law or rule or regulation. I wouldn't be familiar with its contents.

Q. And that was very shortly before this decision came down, I believe, wasn't it?

A. That may have been possible.

Q. Now, Mr. Kennedy, in 1949, when you became President and found out about the financial arrangements between the Legal Aid Department and the Regional Counsel, you have stated, and I quote, "brought about a correction, by canceling all or any part payment of any kind to, anybody." Now, how did you do that?

A. When the ruling came through the Illinois Supreme Court of May the 23rd, 1958, as I recall, the Court gave me [fol. 203] the opportunity of approximately a year to—

Q. Until July 1, '59, I believe.

A. —to make the decision effective.

Q. Yes.

A. I, of course, had the opportunity to review that decision, and I felt, however, that it wasn't necessary to wait for the full length of the Court's procedure to make it effective, so on April the 1st, 1959, I issued a statement to the effect that there would be no further fees of any kind charged to any individual member of the Brotherhood in the handling of a legal aid or a legal case.

Q. Well, now, how did you do that? How did you make this information available to everybody?

A. I put out a letter.

Q. Is that the letter of March 16th, I believe?

A. 1959.

Q. Yes. That has been filed—I forget just what the designation of it is right now.

Mr. Bowles, III: Exhibit 4 (j).

Q. It's already been referred to as Exhibit 4 (j) in the second further call for production of documents. Now, is that the first direction that you gave in regard to this?

A. This was the official letter to all Legal Counsel in connection with making effective the unanimous decision of the Illinois Supreme Court.

[fol. 204] Q. Well, now, that decision was rendered, I believe, on May the 23rd, 1958?

A. That is correct.

Q. And the date of that letter is March the 16th, 1959?

A. Yes, sir.

Q. Now, did you do anything in the meantime?

A. Nothing other than to investigate as to how we could handle this without going through the former procedure that the Supreme Court of Illinois said that we would be prohibited from doing.

Q. Now, Regional Counsel continued to make contributions to the Legal Aid Department throughout 1958?

A. That would be true, they did.

Q. Mr. Savage, I believe, contributed \$1020 that year.

A. He may have. But he contributed nothing after April 1, 1959.

Q. '59? But he did contribute and so did everyone else during the entire year of '58?

A. Until the Illinois Supreme Court's decision was made effective, they all contributed. After that, nobody has contributed.

Q. Then everybody contributed up to July the 1st, '59?

A. No.

Q. The Supreme Court decision was effective July the 1st, '59.

[fol. 205] A. That is correct.

Q. Yes. So you said everybody contributed up until it became effective?

A. No, until we—

Q. Oh.

A. Until the Brotherhood of Railroad Trainmen made it effective, which was April 1, 1959.

Q. So that everybody did contribute up until April 1, 1959?

A. Until I made the Supreme Court's directive effective within the Brotherhood.

Q. You did not feel it necessary to anticipate that directive?

A. I didn't feel it necessary to take the full time of the Supreme Court's directive, because I cut it to April the 1st, '59, rather than to let it go through several months longer that I could have permitted it to exist.

Q. Of course, you realized on May the 23rd, 1958, that splitting of fees was improper?

A. That's correct.

Q. And you did permit it to continue until the following April the 1st, '58?

A. Because the Supreme Court permitted me to do that.

Q. In other words, you were going to allow them to do something wrong until you had to stop?

A. Not necessarily. I felt that it was a directive of [fol. 206] the Court that permitted us to continue our procedure until we could make an effective plan in accordance with the directive of the Court.

Q. I see. Now, President Whitney in his administration did pretty much the same thing in 1946, didn't he?

A. I wouldn't know what he did in '46.

Q. Are you informed of the fact that President Whitney wrote a letter to Regional Counsel on June 15, 1946, to the effect that nobody would be permitted to contribute to the Legal Aid Department thereafter?

A. No, I am not familiar with any letter.

Q. I hand you a copy of two letters. These letters were filed as DeParcq Exhibit 2 and 3 in the proceeding of Young against Gulf Mobile & Ohio Railroad in the United States District Court for the Eastern District of Missouri, Number 3957, in 1946. Both letters are dated, Cleveland 13, Ohio, General Offices, June 15, 1946. Exhibit Number 2 is addressed to Mr. William H. DeParcq, Regional Counsel, Brotherhood of Railroad Trainmen, Suite 1332, 33 North LaSalle Street, Chicago, Illinois; and Exhibit Number 3 is addressed to All Regional Counsel of Brotherhood of Railroad Trainmen. I ask you to read those, please, sir.

Have you read these, sir?

A. Yes, sir.

Q. Are you informed about this?

[fol. 207] A. No, sir.

Q. Do you know anything about it?

A. No, sir.

Q. If, Mr. Kennedy, these are correct letters, it would appear that Mr. Whitney did in 1946 exactly what you did in 1959, wouldn't it?

A. No, sir, I wouldn't understand it that way.

Q. Wouldn't you understand that "Please be advised that neither the Brotherhood of Railroad Trainmen nor any department or bureau thereof is financially interested in any case or cases now pending or to be filed by you in any court, in any State, against common carriers or others, and that no part of any fee received by you as anticipated will be accepted by the Brotherhood of Railroad Trainmen"—

A. I would take it from that that Mr. Whitney dismissed DeParcq as a legal representative of the Brotherhood.

Q. Well, this was addressed to all Regional Counsel of the Brotherhood of Railroad Trainmen.

A. That it refers to what DeParcq did.

Q. I understand that. But does it not say that the Brotherhood will not accept any splitting of fees from any Regional Counsel thereafter? Isn't that what it says?

A. It states that, but I didn't understand that that applied to anybody other than DeParcq, who was dismissed at that time because he split fees and handled his affairs [fol. 208] in a way that was not in accordance with the policy of the Brotherhood.

Q. Are you sure that Mr. DeParcq was dismissed then?

A. Yes, sir, he was.

Q. Who was his partner?

A. I wouldn't know if he had a partner at that time.

Q. Well, these two exhibits, one was addressed to Mr. DeParcq and one was addressed to All Regional Counsel. Now, the DeParcq Exhibit Number 3 addressed to All Regional Counsel has the same purport as your letter of March the 16th, namely, that thereafter there would be no fee splitting, does it not?

A. It may have had that implication, but so far as my letter is concerned, there has been no fee splitting since my directive has been issued.

Q. I understand that, sir, but Mr. Whitney, as President, his letter didn't do any good, did it?

A. Mr. Whitney probably didn't handle it to the same extent that I have handled the affairs of the Brotherhood.

Q. That's exactly what I am trying to bring out, sir, that notwithstanding that he wrote this letter, the same system and the same fee splitting continued right on up until April the 1st, 1959, did it not?

A. That's possible. That's one reason I went to the Illinois Supreme Court, because I didn't agree with that procedure [fol. 209].

Q. What is your ability to say that your letter will be any more efficacious than Mr. Whitney's was?

A. Because I as the President of the Brotherhood will see that the directive that I put out will be lived up to.

Q. Your successor, of course, would be able to reverse your ruling on that, wouldn't he?

A. I couldn't speak for any other human being except myself.

Q. That's what I am undertaking to point out. Your successor would be able to do just exactly what President Whitney did and that is not pay any attention to your letter of March 16, '59?

A. No, sir, I would have to disagree with your theory on that, because we now have a Supreme Court decision of what can be done and what cannot be done, and I would say that my successor, regardless of who it would be, would have to live up to the Supreme Court decision to the letter. We know what we can do under the Supreme Court decision and we know what we cannot do, and any individual that would be elected as a successor to me would certainly be required to respect the decision that was unanimous by the Court.

Q. When do you expect to retire from office?

A. I expect to retire December 31, 1962.

Q. You say that you now have a decision of a Court. [fol. 210] You are in control of this entire department.

and you have investigated, as you say, into the whole situation and how it's operated and its background?

A. Yes, sir.

Q. You knew, of course, then, of a case in 1933 in 15 Ohio Law Abstracts, 106, under the title of In re Petition of the Committee under Rule 28 of the Cleveland Bar Association against Newcomb, Newcomb & Nord. That laid down the same principles, did it not, as this present Supreme Court of Illinois?

A. I am not so familiar with what they did. I wouldn't say that it came in the same classification as the Supreme Court of Illinois.

Q. Had you heard of the case of Dworken against Brotherhood of Railroad Trainmen, Grand Lodge, Number 354,975 in the Court of Common Pleas of Cuyahoga County, Ohio, in 1932, in which the Brotherhood agreed to cease the practices that were entailed in the operation of the Legal Aid Department as then set up and said that you had quit them since 1931 in December? Are you familiar with that?

A. No, sir, I am not.

Q. That's two Court opinions that have told you what you could and could not do prior to that time, is that correct?

Mr. Stallard: Counsel for defendant at this time states [fol. 211] that those opinions ought to be introduced so that they may speak for themselves.

Mr. Bowles, Jr.: I intend to do so at the proper time.

Mr. Stallard: This witness cannot interpret an opinion he has never seen, and this counsel for the defendant does not know the content and therefore he objects to this line of questioning.

Q. Well, you had not run across these decisions in your investigation of the background of the Brotherhood?

A. No, sir.

Q. Well, you made a distinction now as to the guarantee of compliance with the Illinois decision on the ground that Mr. Whitney had no Court decision to guide him and you do, and I am pointing out two that might have guided Mr. Whitney.

A. These are cases, I presume, that Mr. Whitney didn't present to the Court. These are cases that some other individual brought before the Court. The situation that confronted me was that I went before a Court voluntarily and asked the Court for clarification, which they courteously gave me.

Q. Dworken against Brotherhood of Railroad Trainmen, Grand Lodge, in the Court of Common Pleas of Cuyahoga [fol. 212] County, Ohio, was a case where the Brotherhood was brought before the Court, so Mr. Whitney certainly ought to have known about that one, don't you think?

A. I would say that in the history of the Brotherhood, of which we are nearly 80 years old, that there have been probably hundreds of cases brought up in the last 70 or 80 years against the Brotherhood, many of them which are lost in the files because all parties involved are dead and gone. We as a labor organization have been continually confronted with all kinds of particular cases, some of which involved legal-aid matters and many other items of which we over the period of years have just simply had to file them, because we lived up to the Court's rulings, whatever the ruling was. We haven't been in violation of any Court's ruling, to my knowledge.

Q. Well, Mr. Kennedy, what I am saying to you is assuming, now, that the case involved what I said it did—

A. Yes.

Q. —and assuming that it had been brought to either Mr. Whitney's attention or your attention, it would have been a ruling of a Court that would have told you what you could and could not do.

A. And we probably did live up to it, too, because that was over 30 years ago, as I recall.

Q. But you didn't stay living up to it?

[fol. 213] A. I don't know why we haven't.

Q. Well, you admitted in your answer that you were splitting fees up until April 1, 1959.

A. I am not so sure that we were doing it in the State of Ohio.

Q. Oh, I see.

A. You are talking about the State of Ohio, some Court in Ohio.

Q. Well, is your position, then, that you are only going to stop these practices where each State makes you stop them?

A. No, sir, we are living up to these practices now in 50 States.

Q. Now, if Ohio told you in 1932 what you could and could not do, as I have said, then you did not obey that in Ohio thereafter?

A. We obeyed that in Ohio, so far as I know.

Q. Now, would you tell me, please, sir, in your own description how your system as now operated under the designation of Department of Legal Counsel differs from the system called the Legal Aid Department that was operated prior to April 1, 1959? In what respects does it differ?

A. Well, I will clarify that by telling you what the B. of R. T. may do and what it may not do. I'd say, one, the B. of R. T.—

[fol. 214] Q. Are you reading from your March 16th letter?

A. No, not necessarily from the March 16th letter.

Q. What are you reading from?

A. This is a letter that was put out by the Association of American Railroads, put out by Mr. K. A. Carney, General Counsel, and every railroad in the United States received that. This letter states what the B. of R. T. can do and what they cannot do under the Illinois Supreme Court decision. I agree with Mr. Carney, and that is exactly what we are doing now.

Q. Well, do you take the position so far as the State of Virginia is concerned that you can do in Virginia whatever the Association of American Railroads and the Supreme Court of Illinois say you can do?

A. I take the position that we can do that in any State until that particular State sets up a stipulation that will tell us to do something different.

Q. I see.

A. Until the State of Virginia—and we have asked many times—will tell us what we can do in the State of Virginia.

Q. Who did you ask?

A. We have asked our attorney to go before the Courts and say that we are agreeable to a stipulation today on what can be done in the State of Virginia if we can get [fol. 215] that. Up until this time we have been unable to get it. Nobody seems to want to give us a clarification of what we can do. And we have been doing business as a Brotherhood of Railroad Trainmen in the State of Virginia for 75 years and we are trying to find out now what we can do in the protection of the legal interests of an individual who has sustained injury or death on a railroad.

Q. Well, you have found out in Illinois a number of things that you can't do anywhere, haven't you?

A. That is correct, and we are not doing it anywhere.

Q. And you realize that that is the purpose of this proceeding?

A. The purpose, I presume, of this hearing is to bring about a clarification of what we can do and what we can't do in the State of Virginia, and we will be very happy to comply with that decision when anybody will sit down and tell us what we can do and what we can't do.

Q. Well, the complaint shows what the purpose of this proceeding is.

A. I presume that's correct.

Q. Yes. Well, now, I interrupted you when I asked you to tell me how they differ.

A. All right. One. The BRT may maintain a staff to investigate injuries to its members. We maintain that staff. That staff is maintained in Cleveland, Ohio.

[fol. 216] The BRT may so conduct investigations that results are of maximum value to members in prosecuting their claims.

The BRT may make reports of investigations available to the injured man or his survivors. In other words, if I send a man out from my office to make an investigation of a serious accident, there is nothing to stop me from sending a copy of that report to the injured man or his survivors.

4. Investigations to be financed by the BRT. In other words, the investigations will be financed by the Brotherhood of Railroad Trainmen as a labor organization, which we are doing now.

5. The B. of R. T. may make known to the injured members and their survivors, first, the advisability of obtaining legal advice before making a settlement; and, second, the names of attorneys who have the capacity to handle such complaints successfully.

Now, here is what we understand the B. of R. T. may not do.

1. The BRT employees may not carry contracts for employment of any attorney. And I have prohibited any individual of this Brotherhood from carrying a contract for any attorney.

2. May not carry photostats of any settlement checks. And I prohibited them from carrying any kind of a photograph of any settlement previously made.

[fol. 217] 3. No financial connection of any kind between the BRT and any lawyer is permissible. No connections whatsoever. There isn't an attorney representing our Brotherhood in the former Legal Aid Department or in the present Counsel that has any financial connection with the organization.

4. No lawyer can properly pay any amount whatsoever to the BRT or any of its departments, officers, or members as compensation, reimbursement of expenses, or gratuity in connection with the procurement of any case.

5. The BRT cannot fix the fees to be charged for the services to any of its members.

We think that that clarification is absolutely in accordance with the decision of the Illinois Supreme Court and we agree to that, even though that's put out by the Association of American Railroads. We have many things in common with the Association of American Railroads, and sometimes we don't always agree with their theories and ideas, but we do agree with this. And a copy of this was sent to me. And if I had any objections—I had no objections whatsoever, because I said that is the way the Brotherhood of Railroad Trainmen, so long as I am President, is going to handle the personal injury claims of its members.

Q. Well, now, Mr. Kennedy, you agree, then, that if any [fol. 218] member of the Brotherhood or any of the investigators sent out by you go any point further than merely suggesting the name of a lawyer, then he is in violation of the Illinois decree?

A. He would have that right under this to suggest—

Q. That isn't answering my question, sir. I don't believe that answers my question.

A. He would have the right to name the attorney who would have the capacity, in his opinion, to handle the claim successfully in any particular State.

Q. And that's as far as he could go under that letter?

A. That is right.

Q. Now, if he undertakes to take that man to the attorney, he would be doing wrong, wouldn't he?

A. That is right. He would have no right to take him to the attorney.

Q. And he would have no right to try to persuade him to go to that particular attorney?

A. No, he could just mention the attorney's name.

Q. And do you interpret that letter to mean that he can only recommend the so-called Legal Counsel of the Department of Legal Counsel?

A. He would have a right to recommend who he felt, that is, any attorney within that particular State or territory, where he could get what he felt was adequate justice.

[fol. 219] Q. And if it turned out that the investigator was uniformly recommending the Legal Counsel associated with the Department of Legal Counsel of the Brotherhood and no one else, would you consider that he was living up to the spirit of that letter?

A. If he knew of any other attorney in that State that was fully informed as to the Federal Employers' Liability Act, I would say that he would have a right to so inform the individual.

Q. I again say, sir, that this is not responsive to my question, I believe. I put to you this proposition: that if it turned out that this investigator was uniformly recommending only one person and just one and that person happened to be the Legal Counsel connected with the Department of Legal Counsel of the Brotherhood, would you consider that in compliance with that letter?

A. Yes, I would say that that would be in compliance with that letter if there was no other individual there that could be informed of the Federal Employers' Liability Act.

Q. Would you suggest, sir, that there is only one lawyer in the States of West Virginia, Maryland, the District of Columbia, and Virginia that's capable of handling a Federal Employers' Liability Act case?

A. No, sir, I presume there are a great many of them if we can become familiar with them.

[fol. 220] Q. Well, then, I am putting this purely as a hypothetical question in regard to the compliance with the terms of that letter. If it should appear that your investigators were uniformly referring cases to Mr. Savage and to no one else in that territory, then you would say it was not in compliance with that letter?

A. That is correct, if that was to Mr. Savage. Mr. Savage, in the first place, isn't a citizen of the State of Virginia.

Q. Well, Mr. Savage has been handling up until certainly April 1, 1959, cases in the State of Virginia?

A. I think that's correct.

Q. Well, he was not a citizen of the State of Virginia then?

A. No, not at that time. But if we can get some agreement with the State of Virginia, we have no objection to appointing an attorney, a competent and qualified attorney in the State of Virginia, to handle our cases, regardless of what kind of cases they may be, personal injury or otherwise.

Q. Now, Mr. Kennedy, you still have the same legal counsel now that you did in '59, don't you?

A. Yes, we still have.

Q. And approximately the same that you had when you came into office?

A. Well, there has been some changes made, I will have [fol. 221] to agree.

Q. By virtue of death or resignation or otherwise?

A. Yes, there has been some changes made.

Q. The Constitution, Section 91, works the same way that it did before?

A. That is right.

Q. No change in that?

A. No.

Q. No change in these rules and regulations?

A. No, sir.

Q. Now, as I understand it, the President or the head of the Grievance Committee or any of the local officers of a local lodge go to a man when he is injured and advise him of the facilities that are available to him under the Department of Legal Counsel?

A. Yes, I would say that that's our usual procedure.

Q. And the purpose of that is to let him know that there is a department that can help him?

A. The purpose of that is to let him know that he has got certain rights as a citizen and as a railroad employee that should be protected.

Q. And that you are willing to investigate the case for him?

A. If he chooses to use the Brotherhood.

Q. Well, now, the rules of the Brotherhood, as I understand [fol. 222] stand it, require the Secretary of the local lodge to notify you immediately, the Grand Lodge immediately?

A. We require that.

Q. Now, the purpose of this contact, initial contact, is to advise him also that he may have the use of the competent attorneys that you have selected, if he wants them?

A. That's not necessarily true. I would say that in the first place we want this evidence, statistical evidence of injuries and of deaths and of accidents. We are the ones that are responsible for the welfare of these individual railroad workers when we go before the Interstate Commerce Commission. We find that as a less number of employees that are working on the American railroads, accidents rise, and we are keeping a very accurate record of men that are killed in the operation of railroad service, and we once every year go before the Interstate Commerce Commission and point out to them the defects that we find in the handling of the railroad employees' work on these railroads. But, in addition to that, of course, we advise the individual, or the individual's wife if there has been a death, as to their rights under the law, as to their rights under the Federal Employers' Liability Act. And it's not always the Federal Employers' Liability Act that applies, because

men can be hurt on a railroad and the Federal Employers' Liability Act may not be applicable. It may be under a [fol. 223] State law. It may be under laws of which some particular railroad doesn't work under government supervision. And so the individual knows very little about his legal rights, and so all we do is to notify them as to their legal rights and suggest that they confer with a competent and qualified attorney for further handling.

Q. Well, what you actually do is that you advise him what his legal rights are?

A. We certainly do.

Q. Yes. Now, then, you also advise him that he can have the services of your selected counsel whom you deem competent if he wants them?

A. If he chooses to do so, yes, sir.

Q. That is right. Now, in the serious cases you advise him to get your counsel, don't you?

A. We suggest that if he is interested he can go to our counsel. He doesn't necessarily have to use our counsel.

Q. But you do advise him to do that?

A. If he wants to. We don't force him to do it if that's against his will. He can go to any counsel he chooses to do so.

Q. Well, now, how far do you feel under the Illinois decision that an investigator can urge him to select your legal counsel?

A. Only to the point that we have such a counsel. Beyond [fol. 224] that—

Q. Beyond that you don't think that he can do anything to persuade him to employ your counsel?

A. No, sir.

Q. Or to advise him how good that man is as compared to others?

A. We wouldn't persuade a man against his will to do anything. We will point out to him what his rights are.

Q. You are not exactly answering the point of my question, sir. I am not talking about against his will, I am talking about even undertaking to tell him, "Now, this lawyer is better than that lawyer and that's the reason we have selected him as our legal counsel."

A. We wouldn't say in any terms that one lawyer is better than another. We would say, however, that the legal counsel that's employed by the Brotherhood to handle all legal matters, regardless of whether it's personal injury or otherwise, is a competent and qualified attorney, highly respectable in his jurisdiction, and that we would suggest that if he wanted to get the advice that we think would be favorable and right and correct under the law, that he could go to that individual.

Q. And you think that this investigator or no one in the Brotherhood, whether he be a lodge officer or just another member, has any right to do anything more than just tell [fol. 225] him those facts?

A. We just tell them that.

Q. And do nothing to induce him or to get him to go or persuade him to go?

A. We wouldn't use persuasion. We would just point out to him who the legal counsel for the Brotherhood is.

Q. But if he did, that would not be in accordance with the Illinois decision, to use persuasion or arguments?

A. No, we would say that persuasion would be contrary to the Illinois decision.

Q. Now, your Regional Counsel had to, when you called them such, and your legal counsel now have to be members of the Brotherhood, do they not?

A. Not necessarily, no.

Q. Well, they all are?

A. No, sir, they are not.

Q. All except one, I believe?

A. I don't recall just how, but there is no requirement in our law that legal counsel must be members of the Brotherhood of Railroad Trainmen.

Q. Well, would you look at your latest directory and see which ones are and which ones are not? I think it's at Page 80. Page 80 of the October one. Is that the latest one, the October 1960?

A. Yes—no, the latest one would be January of 1959.

[fol. 226] Q. There is no April one as yet?

Mr. Henslee: Yes, that's out.

A. Yes, that's out. But I don't have it with me.

Q. Could we have a copy of that?

A. Yes.

Mr. Bowles, Jr.: Would you arrange, Mr. Stallard—

Mr. Stallard: The latest one?

Mr. Bowles, Jr.: —to get us a copy of the January, '61 and April, '61, both? January and April ones, both, if you will.

Mr. Stallard: I believe he has April with him.

Mr. Bowles, Jr.: You have filed the October one.

Mr. Stallard: You want the April, '61?

Mr. Bowles, Jr.: January and April of '61.

Mr. Henslee: The last two.

Q. In the October one, I think, all except one of the designated legal counsel are lodge members, and he has an application pending, and he is a partner of Maurice M. Davis. That is Mr. Shirley M. Helm in Texas and his partner is a lodge member.

A. That's right.

Q. So that substantially all of the legal counsel—in fact, [fol. 227] all except one—are lodge members?

A. They are, but there is no requirement that they be.

Q. I understand. Now, I believe that there are no more Regional Investigators as such? You don't call them Regional Investigators any more?

A. No, sir.

Q. Now, the Secretary of the Lodge, each Lodge, is still required to send in these reports, which I believe—what are they, LA-1; is that the designation of them?

A. I believe it's LA-2.

Q. Anyway, it's the first report of the thing?

A. Yes.

Q. Now, in effect they are now the Regional Investigators, are they not?

A. I would say that they supervise all of the affairs of the local lodge, including injuries.

Q. Well, you have stated, I believe, in a prior deposition that they perform the same functions that the previous Regional Investigators used to perform.

A. Well, I wouldn't say exactly that, but—

Q. I believe you did say that.

A. —but they are required to make a report of every accident. Otherwise we wouldn't have any record of an accident that occurred.

Q. Well, they also undertake to make investigations, [fol. 228] don't they?

A. No, that's not necessarily true. They don't always make investigations.

Q. You formerly said that, "Regional Investigators, as far as they are concerned, we don't have any of the so-called Regional Investigators we had before, in the relationship of being paid. We have our Secretaries of every lodge who are investigators now, and they perform the same function! Is that correct?

A. Well, I would say that they perform the same function of reporting accidents, but not necessarily the same function of a Regional Investigator in going out and investigating the particular accident.

Q. Well, now, who does investigate the accident?

A. Many of them are never investigated by anybody.

Q. I am talking about really the serious ones that get into the hands of legal counsel.

A. I would say that possibly some local lodge officer would make the investigation.

Q. It would not be a special investigator sent out from your office?

A. No, not necessarily, no, sir.

Q. It could be?

A. It could be, yes, sir.

Q. Well, now, do you claim that these reports are only [fol. 229] for statistical purposes?

A. Yes, sir, we have used them for statistical reasons for 50 years.

Q. I understand you have used them that way, but is that the only reason you want them?

A. That's the primary reason, yes, sir.

Q. Well, what is the reason for the urgency of getting those reports in? What is the reason for getting them in the first day or two after an accident?

A. Because that's the only time you can find out the true provisions of an accident. If you delay it, you miss the opportunities.

Q. Well, that means, then, that the report is really to find out the facts about the injury?

A. The actual facts.

Q. Yes. And that is in order to get to the Grand Lodge as promptly as possible the initial investigation of that injury?

A. That's true.

Q. In your letter, which has heretofore been filed, of January 23, 1961, to All officers and members of the Brotherhood of Railroad Trainmen in the State of New Jersey and New York City area, you stated in part of that, "Promptness in making these reports is very essential. Therefore they should not be delayed awaiting the develop-[fol. 230] ment of facts other than as above stated." And those facts are the names and the addresses of the people that were hurt and how they got hurt, the place of the accident and the railroad?

A. Yes, sir.

Q. Well, now, I ask you again, from a statistical standpoint, why is it so important to get that information right on the first day or two?

A. Because we found out over our years of experience that you can get more actual facts if you get the report within the first few days than you could if you waited for 30 days or 60 days.

Q. Well, now, if a very serious accident happens and it is necessary to send out an investigator from the Grand Lodge or somebody in the territory who is already designated as an investigator, I take it that it's important to get on the job right away?

A. I would say that we would have to make the investigation as promptly as possible.

Q. Well, now, the purpose of that, as we have said, would be to find out the facts so that the man's rights could be protected?

A. The purpose of the investigation, of course, is to protect his rights. Many of these investigations of which we have an investigator are held by the Bureau of Safety [fol. 231] of the Interstate Commerce Commission, and we attend the investigations and we get the facts the same as they do.

Q. I am not talking about that. The purpose of this whole Department of Legal Counsel is to protect the rights of the individual member that gets injured?

A. We find under our laws, our present safety laws, that the Interstate Commerce Commission employs an individual in different sections of the United States to investigate all serious railroad accidents. We attend those same hearings for the purpose of getting statistical evidence to the same extent that the Interstate Commerce Commission does, and so it is important that we get the same advice by our local lodge officers as to a serious accident, a collision or otherwise, as the government does in Washington, so that when the hearing is held, generally within a few days, we can have our representatives there also.

Q. Well, now, Mr. Kennedy, one of the main purposes of the Department of Legal Counsel is to look after the interests and to see that the rights of your individual members are preserved, isn't that correct?

A. That would be one of the purposes, yes, sir.

Q. I am leaving aside now the statistical end of the thing. One of the reasons that you originally set this thing up and the reason that it is maintained is to help these members who are hurt or are killed, their families, to preserve [fol. 232] their rights, isn't that correct?

A. I would say that the question of statistics is just as important as the question of helping the injured man, because we live by statistics, and every year the Association of American Railroads puts out their statistics. We find in many instances that the Association of American Railroads' statistics are not correct, and we keep our statistics so that when they are put out we put out statistics that we feel are more in accordance with the true facts.

Q. Well, now, you do agree, then, that the desire to protect the individuals' rights is equally important with the statistics purpose?

A. Yes, I would say that's true.

Q. So in the protection of the individual's rights it is then extremely important in your view that the actual facts be found out promptly?

A. As quickly as possible.

Q. And that is why you want these reports to be gotten to your Grand Lodge office in a hurry?

A. That's true.

Q. Now, was Mr. Norris W. Tingle a Regional Investigator?

A. I think that Mr. Tingle was a representative of—in Mr. Savage's office.

Q. Well, I believe you admitted in Paragraph 4 of the [fol. 233] answer that he was an employee of the Brotherhood?

A. I think at one time he did receive compensation from the Brotherhood. I am not certain as to the amount, however.

Q. Well, I am not interested in the amount. He is now an employee of the Brotherhood?

A. No, sir, he is not.

Q. Well, your answer says that he is.

A. Well, I don't know when that answer was made, but I don't think he is an employee of the Brotherhood at the present time.

Q. It was filed on August the 7th, 1959.

A. Well, he is not an employee now?

Q. He is not?

A. No, sir.

Q. Who does employ him now?

A. I wouldn't know.

Q. Well, when was he relieved of his responsibilities as an investigator?

A. I wouldn't know exactly, but he was relieved subsequent to the decision that we made the change of the Legal Department on or about April 1, '59.

Q. Well, he must have been relieved since August 7, 1959?

A. Yes. We found that that was true, but since then he has been eliminated and I think it was in 1960 at some time.

Q. Why was he eliminated?

[fol. 234] A. Because all investigators were eliminated. All investigators.

Q. All of them?

A. All of them. Every investigator has been eliminated, except those employed in the Grand Lodge headquarters in Cleveland, Ohio.

Q. Now, Mr. Savage entered into an agreement with the West Virginia Bar in June of 1958. Do you know about that?

A. Yes, I do.

Q. Have you seen that agreement?

A. I think I did read it.

Q. Mr. Savage agreed that he would be responsible for the future conduct of Mr. Tingle in West Virginia in that agreement, did he not?

A. I presume that's part of it.

Q. Well, now, you have read it. Do you know that's a fact?

A. I haven't become exactly familiar with it, but I have read it, and if that is a part of it, why, of course, that's part of the facts.

Q. Now, Mr. Tingle is Secretary of Fraternity Lodge 124, Baltimore, Maryland, isn't he?

A. Yes, sir.

Q. And he is also the Legislative Representative of that Lodge?

[fol. 235] A. I think that's correct.

Q. Now, as such, under the Constitution, as Secretary of that lodge, he is now performing the same functions of a Regional Investigator?

A. I wouldn't know what his duties are as far as Mr. Savage is concerned. He is not a Regional Investigator as far as the Grand Lodge of the Brotherhood of Railroad Trainmen is concerned.

Q. I understand. But you have already said that the Secretaries of the local lodges now perform substantially the functions that the Regional Investigators used to perform?

A. That's true.

Q. So Mr. Tingle is now substantially doing the same thing that he did before?

A. He might be authorized by that local lodge to do that.

Q. Well, he is bound to be if he is Secretary, isn't he?

A. Not necessarily. He wouldn't have to do it if he didn't want to do it.

Q. Doesn't your Constitution require him to do it?

A. No, not necessarily. I would say that we have never enforced the provisions of our Constitution to the extent that the letter implies.

Q. Well, I am not talking about the enforcement now, I am talking about what you can do under your Constitution. [fol. 236] Your Constitution requires the Secretary to file these reports?

A. Yes.

Q. And you have said that the Secretaries now, since you have abolished Regional Investigators, perform substantially the same functions that the Regional Investigators used to perform?

A. That's true.

Q. Now, do you know whether Mr. Savage employs Mr. Tingle?

A. No, I do not.

Q. Have you issued to Mr. Tingle any investigator's commission?

A. No, sir, I have not. I wouldn't know how far back you are going on this, now.

Q. I am talking about now, for 1961.

A. At the present time? Well, I would say that if we desired to have a particular accident investigated, we would probably authorize the Secretary of that lodge or the Secretary of any lodge to make the investigation.

Q. Well, do you issue cards to the BRT investigators now?

A. Well, we have to issue a card that would indicate that the individual would have authority to make an investigation.

Q. Yes. And you do issue those cards at the present time?

A. To the Secretaries.

[fol. 237] Q. And that's the card that has been filed, I believe, as Exhibit 7 with the second further call in this proceeding. Would you know about that?

A. I think that that's probably true.

Q. I hand you Defendant's Exhibit Number 7, second further call for production of documents—this is an exact copy of it; we haven't got the original here—and ask you whether or not that is the kind of card we are talking about?

A. Yes.

Q. And it has 1961 on there?

A. Yes, sir.

Q. Now, does Mr. Tingle carry one of those?

A. I presume he does if he is Secretary of his lodge.

Q. Now, all the Secretaries have these cards?

A. Yes.

Mr. Stallard: May I see it?

Q. Did you ever know a Mr. Marko M. Verbon?

A. No, sir. I don't know as I recall the name.

Mr. Stallard: What is the name?

Mr. Bowles, Jr.: Marko M. Verbon. V-e-r-b-o-n.

A. I think that that, if I am not mistaken, if that refers to an individual in the State of Montana, I would know who he was.

Q. That is right.

[fol. 238] A. If it's any other State, I wouldn't know.

Q. That is correct. Deer Lodge, Montana.

A. That is correct, I would know who he is.

Q. Is he the individual that the newspaper account said that he was fined \$500 for contempt for soliciting, and so forth, in Montana and fined by Judge Taylor?

A. Yes, sir.

Q. And he was convicted of practicing law in Montana by the Powell County Court, I believe, on March 11, 1957. That's the man we are talking about?

A. I think that's the man we are talking about. That's the man that I discharged some time ago.

Q. He was fined \$500 and spent five days in jail, I believe, according to this newspaper account?

A. I think that's correct, because when I read the same newspaper account I dismissed him by wire.

Q. Would you recognize that as the newspaper account?

A. I think that's a correct statement.

Q. That's a photostat of it, of course.

A. Yes.

Mr. Bowles, Jr.: Would you file that as an exhibit with your testimony, please, sir?

(News article re Mark Verbon, The Silver State Post, 3/15/57, marked, "Complainant Exhibit K-1.")

[fol. 239] Q. Now, Mr. Verbon, prior to this conviction, was a Regional Investigator?

A. That is correct.

Q. And he carried the same kind of card that Mr. Tingle is carrying now?

A. Yes, sir.

Q. And he was assigned to the region for which Messrs. Davis, Rerat, Yaeger & Lush were Regional Counsel, I believe?

A. Yes, sir.

Q. Now, shortly after this thing occurred about Mr. Verbon, that firm was dissolved, was it not?

A. Yes, sir.

Q. Did you have anything to do with its dissolution?

A. No, that came about by an agreement among themselves.

Q. Well, did you issue any requirement that they should be dissolved?

A. No, I don't recall that I did.

Q. Did this conviction of Mr. Verbon and the facts brought out in that have anything to do with the dissolution of that firm?

A. No, I would say that that is not true.

Q. Well, Mr. Kennedy, it is a fact, however, that the individual members of that firm formed other firms and those firms, shall we call them splitter firms out of that larger firm, were each assigned as Regional Counsel?

[fol. 240] A. Well, of course, one member of the firm died.

Q. Mr. Davis?

A. Mr. Davis died. And Mr. Yaeger, Sr., retired, and that brought about a change in the setup.

Q. Now, then, what firms came out of that firm, do you recall?

A. The Lush firm.

Q. Davis & Lush, wasn't it?

A. Well, it was Davis & Lush until Mr. Davis died. And Yaeger & Yaeger.

Q. And somebody else and Rerat?

A. And Rerat.

Q. Three firms came out of that?

A. Three firms, yes.

Q. And each one of those became Regional Counsel for the Brotherhood?

A. Yes, sir.

Q. And they were assigned portions of the entire region that Davis, Rerat, Yaeger & Lush had formerly held?

A. Yes, sir.

Q. So that that territory continued to be served by the same Regional Counsel, though divided up?

A. Yes, sir.

Q. Do you know how long Mr. Verbon had been a Regional Counsel?

[fol. 241] A. I am not certain as to the length of time that he was a Regional Counsel, although I never was very intimately acquainted with Mr. Verbon.

Q. But it went back certainly as far as 1954, didn't it?

A. I would say it went back several years, but I wouldn't know how far back.

Q. Now, I believe your organization used to publish a monthly paper called The Railroad Trainman?

A. We published a weekly paper called The Railroad Trainman.

Q. I say you used to publish a paper called The Railroad Trainman, a monthly paper?

A. We used to publish a monthly magazine called The Railroad Trainman.

Q. And you now publish a weekly which is more the type of a newspaper, and that's called the Trainman's News?

A. The Trainman News.

Q. The Trainman News? Does that go to every member of your Brotherhood?

A. Yes, sir, it goes to every member of our Brotherhood and every member of Congress and every library in the United States and Canada.

Q. I believe the advertisement on the masthead says that it's read by about 500,000 persons?

A. We hope so.

[fol. 242] Q. Now, all Regional Counsel or Legal Counsel receive it, do they not?

A. Yes, they would receive it.

Q. They would have to if they are members of the Brotherhood in the usual distribution?

A. That would be an ordinary procedure.

Q. I ask you to look at this one, which is the Trainman News, Volume 14, Number 43, of October 24, 1960, and ask you to look at Page 3 of that and call your attention to the box in the lower right-hand corner.

A. Yes, sir.

Mr. Stallard: May I see it?

Mr. Bowles, Jr.: Yes. Excuse me.

Q. This box says in large print, "Two Lodge 124 BRTers lose legs on same day.

"Baltimore. Fraternity Lodge 124 here experienced one of its darkest, most tragic days recently.

"On the same day, two BRTers suffered injuries in separate accidents that caused each man to lose his legs.

"K. E. Kennedy, 33 and the father of four, lost both of his legs above the knees following an accident in Newark, Delaware.

"R. L. Curley, 44 and father of a child, lost one leg above the knee and the other below in an accident here.

"Curley is recuperating in City Hospital here and [fol. 243] Kennedy in Wilmington General Hospital. Both men are coming along well, reports N. W. Tingle, 124 Secretary."

Is that reporter the same man we have been talking about, Mr. Norris Tingle?

A. Yes, sir.

Mr. Stallard: May I ask what the initials are?

Mr. Bowles, Jr.: N. W.

Mr. Stallard: N. W.?

Mr. Bowles, Jr.: I ask you, sir, to identify that and file it as an exhibit with your testimony. Number 2, I believe, marked Kennedy-2.

(Trainman News, 10/24/60, marked, "Complainant Exhibit K-2.")

(Recess.)

Q. Do you know Mr. E. A. Stouvenel, S-t-o-u-v-e-n-e-l? He is President of Lodge 183 in Clinton, Ohio. That's Hand-in-Hand Lodge. It's on Page 16 of the October one.

Mr. Stallard: What is the name?

Mr. Bowles, Jr.: S-t-o-u-v-e-n-e-l.

Mr. Bowles, III: It's in the October one. Page 16.

Q. Page 16.

A. What lodge did you say?

[fol. 244] Q. 183.

A. Where did you say this gentleman lived?

Q. Clinton, Ohio. Iowa.

A. Oh, well, now, that's a little different. You had me highly confused, because that's two separate States. Yes, I know who you are speaking about now.

Q. Well, he is—well, I don't know what to call him exactly, not a Regional Investigator but an investigator for the Grand Lodge, I believe.

A. He probably has investigated certain accidents.

Q. Well, he carries one of these cards like we talked about for Mr. Verbon and Mr. Tingle?

A. Yes, sir.

Q. Now, did you appoint him?

A. Yes, I would appoint him.

Q. I show you a photostat of a letter which purports to have been sent out by Mr. E. A. Stouvenel, BRT investigator, I presume in his district, and ask you would you recognize his signature?

Mr. Stallard: Let me see that, please.

Mr. Bowles, Jr.: Well, I thought all of you would look at it together.

Mr. Stallard: Counsel for the defendant would object to the introduction of this letter or cross-examination of the witness because the letter bears no date and therefore we [fol. 245] do not know when it was sent out, if it was ever sent out.

Mr. Bowles, Jr.: I intend to show, and I can't do it all at one time, that a letter was sent out by Mr. Stouvenel within the last two or three months. It does not bear any

date. And I wish to examine the witness with regard to certain portions of it.

Q. In the meantime, Mr. Kennedy, what is Mr. Stouvenel's district or what part of the country does he serve?

A. I would say that he simply serves the district of which that lodge has jurisdiction, which is Clinton, Iowa.

Q. Did you get a copy of this letter?

A. No, sir. This is the first time I have ever seen it.

Q. Do you know whether a copy came to your office?

A. No, sir.

Q. The letter says that, "The B. of B. T. constitution"—I am quoting—"provides that a lodge officer is to inform the Legal Aid Department when one of our brothers are injured and then I in turn am notified by the Grand Lodge of the happening of the accident so that I can contact our injured members and see to it that your rights under the Federal Employers' Liability Act are protected." That's in accordance with what we have just previously said, I believe, in the Constitution?

[fol. 246] A. Yes.

Q. "In recent months the reports are sometimes delayed or absent. It has been my experience that the first 24 to 48 hours following a railroad personal injury is the most important time to develop facts." We just agreed that that is a fact?

A. Yes.

Q. "The mere fact that an employee is on the job when injured does not in itself make out a claim against the railroad employer and the negligence of the company in most cases has to be established." That you have pointed out yourself, I believe?

A. Yes.

Q. "I am told by the lawyers for the Brotherhood that the company claim agents regard the first day following the accident to be their most important day to establish that the liability is in favor of the company." I would assume you wouldn't disagree with that?

A. No, I have found that to be true in many instances.

Q. "You can therefore see why prompt notice to me of an accident is most important."

Then there occurs the next paragraph.

"The assistance that I provide for our injured brothers is given free to the individual member and it is obvious to say that an injured member has everything to gain and [fol. 247] nothing to lose by contacting me."

That is a fact, is it not?

A. I wouldn't say that's a fact. To what extent he knows the workings and the intricate parts of the Federal Employers' Liability Act, I wouldn't know.

Q. I agree with you, Mr. Kennedy. I gather from this sentence that it's important to get the thing going and to contact him. "We will get it going." But if he feels somebody else ought to be brought in, the somebody else will be brought in. Now, that letter in substance is in accordance with the purpose of the Department of Legal Counsel, is it not?

A. That—

Q. That portion of it relating to the protection of the members' rights?

A. There is some parts of that letter that's in accordance with it. However, the issuance of the letter was contrary to my instructions.

Q. Well, you did not order this letter to be sent out, I gather?

A. No, I didn't. I have never seen the letter before.

Q. Well, I just understood that you hadn't seen it, so you couldn't have ordered it to be sent out?

A. No.

Mr. Bowles, Jr.: Would you file that as an exhibit with [fol. 248] your testimony for identification, please? That's Number 3, I believe.

(Letter, E. A. Stouvenel to Dear Sir and Brother, marked, "Complainant Exhibit K-3.")

Mr. Stallard: Counsel for the defendant would object to the introduction of this letter as an exhibit unless the complainant can show the date and the circumstances under which it was sent out, for the letter could have been sent out years ago.

Q. Well, Mr. Kennedy, I believe that you have just said that it is in accord with that portion of the purposes for protection of your members in substantially the portions that I read?

A. There are some parts of it that appear in accordance with our present procedure, although an undated letter such as that we don't regard within the Brotherhood as having any particular significance.

Q. Well, I have already said that I expect to show when and where and the circumstances under which it was made.

(Discussion, off the record.)

Q. Well, now, you have already said that you knew the firm of Yaeger & Yaeger that are now your Legal Counsel in Minneapolis for a given territory?

A. Yes, sir.

[fol. 249] Q. And you appointed them?

A. Yes, sir.

Q. Do you know a man named William Siess? S-i-e-s-s, who is the Legislative Representative of Lodge 160 in Philadelphia, Pennsylvania? You will find that at Page 15 of the October, 1960, directory.

Mr. Stallard: What was the name?

Mr. Bowles, Jr.: S-i-e-s-s.

Mr. Henslee: Siess is the way you pronounce it.

Q. Do you know him?

A. Yes.

Mr. Stallard: Is he an attorney?

Mr. Henslee: No.

Mr. Bowles, Jr.: No, he is a Regional Investigator, isn't he?

Mr. Henslee: He was the Regional Investigator.

A. I think under our former procedure he was assigned as a Regional Investigator.

Q. He carries a card now, doesn't he?

A. For the local lodge.

Q. And the same kind of card that Tingle and Stouvenel and Verbon carry?

A. For their local lodges, yes, sir.

[fol. 250] Q. And did you appoint him?

A. Yes.

Q. Do you know—you can look at Page 24 of your October directory—Fred Harmon, who is Local Chairman of Lodge 318 at Anderson, Indiana. It's the October directory.

Mr. Henslee: Well, the last ones we have are these two here.

Mr. Bowles, Jr.: That's the only one that's been filed is the reason I am limited to one.

Mr. Henslee: These are the old ones that we have here, '58 and '59.

A. What is the number, the lodge number?

Q. It's Page 24, Lodge 318.

A. Yes.

Q. Local Chairman?

A. Yes, sir.

Q. Do you know him?

A. Yes, sir, I know who he is.

Q. Do you know R. D. "Bob" Morris, who is Secretary and Treasurer of Lodge 318, Anderson, Indiana?

A. Yes, sir.

Q. Is he a Brotherhood of Railroad Trainmen Investigator?

A. He probably could be, but I wouldn't swear that he is.

Q. Well, did you appoint him, do you know?

[fol. 251] A. If he is an investigator, I did appoint him.

Q. Well, does he carry a card like Tingle and Stouvenel and Verbop do? He is a Secretary. He would be the man that would normally carry out the functions of the old Regional Investigator?

A. Yes, he may have a card and he may not. I wouldn't say that he does. But he is the Secretary and he would probably make the reports whether he has got a card or not.

Q. Turn to Page 44 of the October directory, sir, and do you know R. M. Crago, who is a Local Chairman of Lodge 699 in Indianapolis?

A. Yes, sir.

Q. Do you know whether he carries a card?

A. Yes, sir, he does.

Q. He carries one of those cards?

A. Yes, sir.

Q. Did you ever know a man named Fred Weber, who is now retired?

A. You'd have to tell me—

Q. I don't know his lodge number.

A. I know many Webers. I couldn't say as to—

Q. Well, it's not important. Did you ever know a man by the name of George P. Rummel, who is now dead? He was a former griever of Lodge 261 in Indianapolis.

[fol. 252] A. Yes, I would recall a man named Rummel. I think he was killed in an accident.

Q. He is dead. I don't know how he died.

Mr. Henslee: He was killed on the New York Central.

The Witness: Yes, I think he was killed in a New York Central passenger train accident, if it's the same Rummel.

Q. Was he one of these Regional Investigators?

A. Yes, I think he was.

Q. Do you know a Mr. Gail Clinkenbaird?

A. Yes, sir.

Q. Was he a Regional Investigator?

A. He was for a lodge in Iowa.

Q. Well, did you appoint him?

A. Yes, sir.

Q. And he carried a card like these ones we were talking about?

A. Yes, sir.

Q. And he was assigned to Messrs. Davis & Lush in Minneapolis, wasn't he?

A. At that time. He is not assigned to anybody now.

Q. Well, he is a defendant in a proceedings in both Iowa and Nebraska, isn't he?

A. He was. Those proceedings, however, have been liquidated [fol. 253] dated and disposed of.

Q. Do you know a man named Leander A. Pickard? He is Local Chairman of Lodge 1050 in Hornell, New York.

A. I know who he is, yes, sir.

Q. Well, does he carry one of these cards?

A. I couldn't say that he does. He may. I wouldn't know.

Q. I don't know either, so that's the reason.

A. No, I couldn't say. When you issue these cards, I couldn't say.

Q. They come out of your office, of course?

A. Yes, sir.

Q. Do you know a man named Don Taylor in Columbus, Ohio?

A. Yes, I know who Taylor is.

Q. Was he a Regional Investigator at one time?

A. I would say yes, he was.

Q. And you appointed him, of course, I gather?

A. Yes.

Q. Is he an investigator now?

A. He would be. He probably has a 1961 card.

Q. Do you know Emmett Adley in Canton, Ohio?

A. I think I know who he is.

Q. Well, who is he? Could you tell me?

A. The name I would have to identify.

Q. I couldn't find him in that thing, so I am asking you.

A. Well, let me just for a moment—

[fol. 254] Mr. Henslee: Off the record.

(Discussion, off the record.)

A. Let me see if that's the same one. No, I can't identify him. I wouldn't say as I know him at all.

Q. Do you know Stanley Ryder?

A. I know several Ryders.

Q. He is a Local Chairman of Lodge 71 in Oakland, California.

A. Well, you are a long ways from Cleveland, Ohio, but I happen to know him.

Q. He is at Page 10 of your October, 1960, directory.

A. Yes, I know who Ryder is.

Q. Said to be a Local Chairman.

A. Yes.

Q. He carries one of these cards, too?

A. Yes, sir.

Q. Do you know Harry Dragmire?

A. Yes, sir.

Q. What is he?

A. Dragmire, as I recall, was from—a representative from one of the western lodges.

Q. He was a Regional Investigator formerly, I believe, wasn't he?

A. Yes, he was. He is not at the present time, however.

Q. He is not?

A. No, sir.

[fol. 255] Q. He was assigned to Hildebrand, Bills & McLeod at Oakland?

A. Yes, sir. He has been removed.

Q. He is the person that was named in the Southern Pacific against Brotherhood of Railroad Trainmen in the District Court of Los Angeles, I believe?

A. And that was the reason he was removed.

Q. I understand. Do you know B. G. Byington?

A. If it's the Byington from Virginia.

Q. He is the General Chairman of the Central of Georgia Railroad.

A. Yes, I know who he is.

Q. And he is President of Local 1124 at Macon, Georgia. That's Page 64.

A. Yes, I know him.

Q. Would he be classed as an investigator? Would he carry one of these cards?

A. He could be, because of being President of a local lodge.

Q. What is the position of General Chairman of the Central of Georgia Railroad? I am a little confused about that. What does that mean?

A. It means that he supervises the Brotherhood's affairs on that particular railroad. It's a small railroad in the South.

[fol. 256] Q. Is it divided up by railroads for supervision?

A. Yes, sir.

Q. I believe your Legal Counsel in Birmingham is a lawyer named Al Rives, is that correct?

A. Yes, sir.

Q. And your Legal Counsel in Atlanta, Georgia, is the firm of Lewis & Lewis?

A. Yes, sir.

Q. They were former Regional Counsel as well, before this new system?

A. Yes, sir.

Q. Now, do you know Mr. Vernon Satterwhite who lives in my town, Richmond, Virginia?

A. Very much so.

Q. Mr. Satterwhite used to be your assistant, I believe?

A. He still is. He still is one of my Vice Presidents and a very—

Q. He used to be First Vice President; now he is Ninth Vice President or Tenth?

A. No, he formerly was the Assistant President of the Brotherhood; now he is a Vice President of our Brotherhood.

Q. And he is a Tenth Vice President, I believe?

A. I think he is, yes, sir.

Q. Well, is it a fact that Mr. Byington and Mr. Satterwhite have had any controversy of late?

[fol. 257] A. I would say not. I wouldn't say that Mr.—

Mr. Stallard: Counsel for the defendant objects to this line of testimony for it's not pertinent to the issue here.

Mr. Bowles, Jr.: I think if you let me pursue it a bit further you will see the pertinency.

A. I would say that knowing Mr. Satterwhite as I do, a very high-class individual, one of the most—I would say one of the most sincere individuals that I ever met; has never said an unkind word against anybody in this Brotherhood or any place else.

Q. Well, now, can you tell me whether or not there has been any controversy in the Brotherhood about the jurisdiction of Mr. Rives and Messrs. Lewis & Lewis?

A. No, sir, not to my knowledge.

Q. Not revolving around Mr. Byington?

A. No, sir.

Q. Mr. Kennedy, I am trying to move along here now a little bit. All of these Regional Counsel that have served since 1949 when you became President, you reappointed

them and continued them in office in so far as they did continue in office?

A. Yes, sir.

Q. And then when this new system came in, as is claimed, [fol. 258] the same men became Legal Counsel?

A. Yes, sir.

Q. Now, could you tell me with any degree of comfort at this time who these men were when you took office? I mean, your Legal Counsel. Or would it serve our interest better here if you would furnish us with a list of the ones who were Regional Counsel when you became President?

Would that save time, Beecher?

A. Well, I would say that the best way to save time would be to take a directory of our Brotherhood—

Q. Well, I don't want to take up the time.

A. —and that would list the groups who were the Legal Counsel at the time I took over.

Q. Well, now, here is what I want to arrive at, and if we can save time by reaching some understanding about it, I want to find out who were the Regional Counsel when you became President, and I see from the directory who are the Legal Counsel now, and the changes in there that occurred from that time until now I would like to know and the reason for them. In other words, if a man died, obviously somebody got appointed. And could we undertake to get that information by working it up and not going into it now?

Mr. Stallard: Well, we could stipulate the directory as of 1949—

Mr. Bowles, Jr.: I don't have all those directories.

[fol. 259] Mr. Stallard: But what took place—some of them died. I wouldn't know how to stipulate that.

A. Well, we have appointed individuals since, of course, that time, and some of the others have died and changes have taken place. Territorial changes have taken place.

Q. Well, your records would show who took whose place during that period?

A. I'd say we could furnish you with a fairly accurate statement.

Q. If you can do it without too much trouble and pretty accurately—

A. Yes.

Q. —would you agree to do that?

A. Yes, we can furnish that.

Q. I don't see any point to asking you, "Was Mr. So and So all the way through and did he die or what-not?"

A. No, sir.

Mr. Stallard: Let me see if I understand. You want the names of the Regional Counsel in 1949?

Mr. Bowles, Jr.: The names and the residences of Regional Counsel when he became President.

[fol. 260] Mr. Henslee: By "residence," you mean their office?

Mr. Bowles, Jr.: Yes, their office.

Mr. Bowles, III: Their territory.

Mr. Bowles, Jr.: And the names of Legal Counsel now.

Mr. Stallard: Of Legal Counsel now?

Mr. Bowles, Jr.: And the changes intervening. And by that I mean the time when one man ceased to be and who took his place or any new ones, and so forth and so on.

Mr. Stallard: I don't know that we can get into all that. It would be a very good memory, unless you have some document records.

Mr. Bowles, Jr.: I am sure they have the records at the office.

The Witness: We could give them a fairly accurate statement on it. Not knowing exactly the dates of death, but several of them have died.

Mr. Bowles, Jr.: Just the year would be quite sufficient, unless I would want it more specifically than that, and that's very simple to ask later on.

The Witness: Yes.

[fol. 261] Q. Now, who is your Legal Counsel for Virginia now?

A. The man who is handling our affairs for Virginia now is none other than Mr. Stallard.

Q. Does that mean Mr. Savage is not your Legal Counsel in Virginia?

A. He is not the Legal Counsel now in the State of Virginia.

Q. When you list them in this directory as your Legal Counsel, under the directory thing it doesn't appear that there is any Legal Counsel in Virginia?

A. No.

Q. Unless it's Mr. Savage?

A. That may be true from looking at the directory, but at the present moment there is no so-called Legal Counsel in the State of Virginia other than Mr. Stallard himself, who is handling this particular case.

Q. Now, in the answer—and I am going to make a mention now of something you couldn't possibly have any knowledge of and Mr. Stallard will—it's Paper Number 12 in this proceeding. Our Judge has a system of numbering his papers and that's a more easy way to identify it. It is the answer of the Brotherhood of Railroad Trainmen to the request for documents that was filed and sworn to by Mr. Maher on May 5, 1960. Now, in Paragraph 13 of that paper it says that Mr. Savage and Messrs. Lewis & Lewis have handled Virginia business, but not since the change [fol. 262] as Legal Counsel. Now, does that mean that you have had no Legal Counsel as such like Mr. Savage in Virginia since this change?

A. We haven't had any Legal Counsel in the State of Virginia for some time past and it's all been caused by the particular case that we are now discussing.

Q. I understand.

A. And when this case is disposed of we will have a Legal Counsel in the State of Virginia and he will be a citizen of Virginia, if we can ever get to the point where we can reach some kind of an agreement.

Q. That's what I am trying to get to right now. We are both working towards the same end in that regard. Now, you have explained that the reason for that is this suit?

A. Yes, sir.

Q. Now, who in Virginia now offers this service to Virginia members since April 1, 1959?

A. I have no idea. Nobody to my knowledge.

Q. You mean your members in Virginia don't get this service?

A. No, sir, they don't. They don't because of this lawsuit.

Q. And they contribute and what-not, but they don't have anybody that can give them this information and advice?

A. Unfortunately, the situation in Virginia is to the [fol. 263] extent that we are sitting by helpless waiting until this lawsuit or whatever procedure you may call it is disposed of and we can reach an agreement as to who will represent us in Virginia, and it will be an attorney from that particular State.

Q. Well, now, I understood your position earlier this morning to be that under the Illinois decision that until some other State said the contrary that that's what you were entitled to do in all 50 States?

A. We can't say to the State of Virginia that, "You are going to live up to the specifications of a Court in the State of Illinois." They would very politely tell us to mind our own business. We do say to the State of Virginia, "You tell us how we can operate as a labor organization in the protection of our members in the State of Virginia and we will comply with that request."

Q. Well, now, you did not file a declaratory judgment proceeding in Virginia as you did in Illinois to find out that?

A. No, sir.

Q. You have through Mr. Savage been negotiating with the Unauthorized Practices Committee of the Virginia State Bar for a considerable length of time, have you not?

A. Well, we tried to do in Virginia what we did in West Virginia. We authorized Mr. Savage to make his disposition of his particular case in West Virginia. Now, in this situation in the State of Virginia, we decided that—Virginia is one of the oldest of our States, I'd say one of the finest of our States, one where we have a lot of very loyal members—we decided that the time had arrived when they are entitled to have a representative in the State of Virginia and we intend to give them that.

(Discussion, off the record.)

Q. Well, now, there are States other than Illinois in which there is no proceeding pending and in which you have not sought any declaratory judgment and in which nothing has been done and in which you are now operating with a Legal Counsel, isn't that correct?

A. That is correct. If they don't raise the issue, we don't.

Q. Maryland is one of those, isn't it?

A. I presume Maryland is.

Q. Mr. Savage's your Legal Counsel in Maryland?

A. In Baltimore, Maryland, that is correct.

Q. Is Mr. Savage operating there in the way that Legal Counsel are operating everywhere else, so far as you know?

A. He is operating in the State of Maryland in accordance with the rules and regulations that I have insisted will be applied in accordance with the Illinois Court decision.

Q. So far as you know?

[fol. 265] A. Yes, sir.

Q. Now, if the Illinois decision is acceptable to other States and what-not, what reason would there be why you shouldn't have Legal Counsel in Virginia complying with that decision until it was decided that that wasn't sufficient?

A. The only reason that I know of is because of this pending lawsuit.

Q. And on account of this pending lawsuit, notwithstanding the fact that you feel that the Illinois decision is correct, you are depriving your members of this service in Virginia?

A. We are depriving our members of this service in Virginia not because of anything that the Brotherhood is doing, it's because we are held in a Court procedure that we feel is of sufficient—I wouldn't say evidence or whatever you would want to call it, the legal phraseology of it—that we would hold this thing under a status quo until this matter is disposed of, but we say and we stipulate again as we have in the past, it will be an attorney from the State of Virginia when we can reach an agreement with the State of Virginia, which now is handling these proceedings.

Q. Well, now, Mr. Kennedy, you did not because of the pendency of the Illinois case cease the practices there that [fol. 266] were later found to be improper and which are now admitted in this proceeding to have been improper?

A. There has been no proceedings in the State of Virginia that's been improper since I put the effective notice out April 1, 1959.

Q. That isn't what I asked you, sir. I said that in Illinois you did not on account of the pendency of those proceedings stop the practices in Illinois that were later in that pro-

ceeding considered to be improper and which are admitted in this proceeding in Virginia to have been improper?

A. I stopped them in Illinois as of this given date, April 1, 1959.

Q. Yes, but until the Court decided something, you didn't stop them?

A. Keep in mind that when the Court decided it, it was through my personal request that the Court decided it. I made a special request to the Court, probably the most unique request that's been ever made by a labor organization in America. I asked the Court for clarification of what I could do and what I should not do under the law. No other labor organization in the history of America has ever made such a request before any Court.

Q. All that may be fine, sir, but it doesn't answer my question. Would you mind answering my question?

[fol. 267] A. I would say that we are complying and have complied with the—so far as I know, with the laws of the State of Virginia since April 1, 1959.

Q. What I am asking you is that in this unique thing that you did, to petition the Court to find out what you could do, you did not stop the things that the Court later said you couldn't do until the Court told you you had to stop them? That's a fact, isn't it?

A. Well, of course, we asked for that consideration and they gave it to us.

Q. Well, however that may be, you didn't stop them until the Court said you had to, did you?

A. I presume we'd have to say no, we didn't do it, because—

Q. Right.

A. —because we were so confused that we didn't know what we could do and what we couldn't do, and we did what any respectable labor organization would do, go to a Court and ask for guidance. They gave it to us; we followed their advice.

Q. Now, skipping all that and to save time, if you would answer my question first and then explain it afterwards, I think we would get along faster. You maintain now that the Illinois decision is a proper one and is an outline of what you can and cannot do?

[fol. 268] A. It's a proper one for any State that accepts it.

Q. I understand. Now, then, why is it that you are not willing to go on and operate under that until Virginia tells you that that is improper?

A. We are willing to do it.

Q. Well, why don't you do it?

A. Because of this particular lawsuit.

Q. Well, why should this lawsuit stop you if the Illinois one that you yourself started didn't stop you?

A. Because we don't know what the status of our membership is going to be in the State of Virginia until these proceedings are over.

Q. Well, you consider that now, sir, a sufficient answer to my effort to find out what appears to me to be an inconsistency in position?

A. Well, I would understand your position is that why don't we apply the Illinois decision in the State of Virginia until some competent and qualified Court states in the Commonwealth of Virginia something different. Now, keep in mind that we as a labor organization don't want to do anything that's contrary to any law. That's one thing that we hold very consistent. We are a law abiding organization. When this action came against us in the State of Virginia, we simply said, "We won't apply any kind of a proposition in the State of Virginia until we know definitely what they want, even the Illinois decision." That may not be acceptable to Virginia. We don't know. If we thought for a moment it would be, we would make it effective tomorrow.

Q. The point that I am making is that that is a different method than what the Brotherhood pursued in the case of the Illinois request?

A. It is a different method, yes, sir.

Q. Yes. That's all I wanted to get you to say.

A. It's the only unique method that we have got.

Q. Now, in that same paper Number 12 in this proceeding, the answer of the Brotherhood to the request for documents that was filed on May the 5th and sworn to by Mr. Maher, in Paragraph 16 it is said that Norris W. Tingle has not performed any services in Virginia for two years before that date. Is that correct?

A. I wouldn't know. I presume it is correct if he said so.

Q. Well, that's what I was going to ask you. How do you know that's correct?

A. I wouldn't know.

Q. How does Mr. Maher know?

A. I wouldn't know how he reached that conclusion.

Q. Well, now, you have told me that no one performed those services, is that correct, so far as you know?

A. In the State of Virginia?

[fol. 270] Q. Yes.

A. Nobody performs any services in the State of Virginia for the Brotherhood of Railroad Trainmen.

Q. So you have no investigator in Virginia now?

A. No, sir.

Q. Now, have these Secretaries of the local lodges in Virginia been notified that they shall not discharge their duties required by Section 19 of the Constitution?

A. No, sir, they have not.

Q. And they are still performing them?

A. I presume they are.

Q. So that there is somebody in Virginia that is doing what Mr. Tingle used to do?

A. But they are laying dormant at the Grand Lodge.

Q. Well, they are required to send in these reports?

A. They are, and probably many of them did do it.

Q. And are they doing it?

A. I presume they are.

Q. And what becomes of those reports now?

A. They just lie in the file.

Q. Now, you are still operating in West Virginia and Maryland and the District of Columbia doing the same things there that you used to do in Virginia?

A. Well, we are complying with the Illinois decision in these other States.

[fol. 271] Q. Now, in the letter that we have referred to before that you wrote on March 16, '59, which is Exhibit 3(a) of the first call and Exhibit 4(j) with the second call, and I believe is now—off the record.

(Discussion, off the record.)

Q. You know what I am talking about?

A. I think you are talking about this letter here.

Q. Yes.

A. Yes.

Q. Now, in that letter, you set out what the duties and authority and responsibilities of Legal Counsel are, don't you?

A. Yes, sir.

Q. In this same Paper Number 12 that I referred to, the answer to the request for documents heretofore filed, Mr. Maher says at Page 5 of Paragraph 2, "Everybody, Investigators, Lodge Officers, and Legal Counsel, were notified of the change between March 20th of '58 and March 16, '59." Now, that is a period of just about a year, lacking four days. Now, could you tell me who was notified in that interim before your letter?

A. I presume Mr. Maher did it by verbal contact.

Q. And do you know what people he told about it?

A. I presume as he met each one of the Legal Counsel he informed them.

[fol. 272] Q. And do you presume that during that year that all over the country all Legal Counsel were told that they should not under any circumstance split fees or make any contributions to the Brotherhood?

A. They were told that we would comply with the provisions of the Illinois Supreme Court on a given date, prior to the final period of time that they specified.

Q. But they were told also that everywhere else it was perfectly all right to keep on doing wrong until that date?

A. Well, the Court gave us a period of time to comply and we didn't use that full period of time. Now, in the meantime, there probably were violations, but we made it effective April 1, 1959. There have been no violations since.

Q. Of course, the Illinois Court had no right to prescribe what you could do in other States?

A. That's true. And other States didn't raise the question that—

Q. And you accepted for Illinois as to what was right and wrong to do?

A. Well, we had to have some form to follow and we felt that by following a Supreme Court in the State of Illinois that we were on very good grounds.

Q. Well, you did agree that substantially what you read me here in the letter that you mentioned from the Association [fol. 273] of American Railroads—

A. Yes.

Q. —that was the analysis of the Illinois decision?

A. That is correct.

Q. Now, then, you did agree then that certain things you could do and certain things you could not do?

A. That is right.

Q. Now, you knew that the Illinois Court gave you until July the 1st to put that into effect?

A. Yes, sir.

Q. Notwithstanding the fact that you had agreed that certain things were wrong, you continued to do it in other States, among them Virginia?

A. For a specified period of time we did. There is no question about that.

Q. Well, what is your opinion about that on the basis of good faith?

A. We would say that when a Court passes a sentence or when a Court tells you what to do and they give you a period of time to readjust your affairs and we don't even use that allotted time but we adjust our affairs prior to the expiration of that time, I think we acted in good faith to the Court.

Q. But you did tell in that interim these Regional Counsel that they could not make any more contributions? [fol. 274] A. That is right.

Q. And we have already agreed that you did accept them up until April 1st of '59?

A. I would say that that's correct.

Q. Now, does the Illinois opinion forbid, in your idea in construing it, that counsel can or cannot make advances or loans to injured members?

A. I would understand that they cannot do that.

Q. Cannot do that? That's your interpretation of the opinion?

A. Yes.

Q. Your letter of March 16th doesn't mention that item, does it?

A. No, because I felt that that wasn't any of my particular business, what an attorney would do.

Q. Well, after all, these were the people that are appointed by you?

A. Yes, but we have so many other attorneys that could do as they pleased and we didn't want to set up a program for attorneys.

Q. Well, now, if you found that other attorneys were not complying in their own personal practice, did that excuse your people from not complying?

A. No, I would say not.

Q. Your letter of March 16th, then, left up to each individual Legal Counsel of your Brotherhood, so appointed by you, to interpret this Illinois decision as he saw fit?

A. Well, that would be in accordance with the attorney's given right to do that.

Q. Well, that is what you intended by your letter?

A. Yes, sir.

Q. Well, you did not intend by your letter, then, to say that, "If you don't subscribe to my idea of the Illinois opinion rather than some opinion of it that you may have, you can't be Legal Counsel any longer"?

A. No, sir, I didn't want to take that position.

Q. So in effect you left them perfectly free to do whatever they construed to be the Illinois decision?

A. Well, they are the ones that had a copy of the decision and, like good attorneys always are, they comply with the law.

Q. Well, that is an assumption, I fear, that our profession cannot indulge to its full capacity, sir.

A. Well, of course, I have no way of advising the profession what they should do and what they shouldn't do, but I will say that as far as the Brotherhood is concerned, we try to live up to the Courts' rulings.

Q. Suppose you found that an attorney was not living up to those rulings, what would you do to enforce it?

A. I would remove him from office.

[fol. 276] Q. Have you removed any since?

A. No, I have removed them over a period of years, but I wouldn't say that I have removed them since.

Q. Have you removed anybody since this letter of March 16, '59?

A. No, I have not.

Q. Now, your rules and regulations that were put out in 1933 or somewhere back in there, pursuant to your constitutional provisions, which is Exhibit 3 with the first call for documents, that doesn't forbid advances by your attorneys to a client?

A. No, I wouldn't say it wouldn't.

Q. And under those rules and regulations for many years it's admitted in your answer of the Brotherhood that advances were made?

A. That's correct, they were.

Q. Now, how did you select Regional Counsel and how do you select Legal Counsel?

A. I would find that if there was a territory that we needed Legal Counsel, we would canvass among our members and other groups as to who was qualified to represent a labor organization in that particular territory.

Q. Well, now, that same Paper 12, which is the answer of the Brotherhood to the request for documents, at Paragraph 21, Mr. Maher says that prior to April 1, '59, and [fol. 277] subsequent thereto, the selection of attorneys as Regional Counsel or as Legal Counsel was made on the basis of their reputation for, (A), integrity; (B), ability; and, (C), specialty of the particular lawyer. Is that correct?

A. Well, I would say—

Q. Is that the basis on which you made your appointments?

A. That is one of the bases—three of the bases that we would use.

Q. Well, are there any others?

A. Yes, I would say that we would want to know the character of the individual attorney in the particular territory, what his background was.

Q. Did you appoint Mr. Clifford Hildebrand?

A. Yes, sir.

Q. When did you appoint him?

A. When Mr. Whitney died, I reappointed him.

Q. You have known him, I believe, for 12 or 15 years, you have said?

A. Yes, sir.

Q. Did you know about the proceedings against him in California under the style of Hildebrand against California State Bar, 225 Pacific (2d) 508, in which there was a censure in 1950?

A. Yes, sir.

Q. Did you know about the consent decree from the [fol. 278] El Paso, Texas, case in which the Brotherhood was a party?

A. Yes, sir.

Q. Now, you had complete control of the defense and you approved of that case and approved the terms of that decree, I believe, did you not?

A. Yes, sir.

Q. Did you remove Mr. Hildebrand on this account?

A. No, sir.

Q. You just took his Texas territory away from him, didn't you?

A. Yes, sir.

Q. And do you ever make investigations of lawyers as to how the Regional Counsel get their business?

A. I have to some extent.

Q. I believe you previously stated that you would be the first one to report any infractions of these things to any Bar Association?

A. That's my intention to do so.

Q. Well, now, while Mr. Hildebrand was involved in that pending California case, he didn't make any contributions to the Legal Aid Department, did he?

A. I wouldn't know. I would say probably he did not. I couldn't say.

Q. You testified once before that he did not, I believe, did you not?

[fol. 279] A. I think that's right, that he did not.

Q. All the others did, though?

A. I think that's true.

Q. And as soon as that proceeding was over, Mr. Hildebrand resumed his contributions in '53 and continued them up until 1958, didn't he?

A. I wouldn't understand that that would be true. I am not so certain as to when he started or when he stopped.

Q. Well, wasn't that brought out in the proceeding of ex rel. Beck?

A. I think that there was some financial interest brought out in that involving Hildebrand, but I couldn't say as to the details.

Q. Hand you what purports to be an exhibit in that proceeding, State ex rel. Beck, in Nebraska, 8 pages—these are photostats—and ask you whether or not you have ever seen those records before?

A. These records, as I recall, are records in the State of Nebraska proceedings—

Q. That is right.

A. —which have now been satisfactorily disposed of. They came to Cleveland and with our permission they went through our books and whatever record they found there was the accurate record that we will have to subscribe to.

Q. Well, I am purporting to say that this is a copy of the [fol. 280] exhibit that was filed there.

A. Yes.

Q. So if that is a copy of that exhibit, that is a correct statement of the records that were given under those circumstances?

A. Yes, sir, that is correct.

Q. I don't want to go into too much of this, Mr. Kennedy, because they speak for themselves, but I call to your attention that the first one here is 1951, in which Mr. Hildebrand's contribution is not listed. In 1953, Mr. Hildebrand is on there as making a contribution. And Mr. Hildebrand is continuously on the subsequent years of '54, '55, '56, '57, and '58 as a contributor?

A. Yes, sir.

Mr. Bowles, Jr.: Would you file that as an exhibit with your testimony, please?

(8-page exhibit from State ex rel. Beck re contributions, marked, "Complainant Exhibit K-4.")

Q. Do you know Mr. Alex S. Dombey?

A. Yes, sir.

Q. He is a resident of Franklin County, Ohio, isn't he, or is he?

A. He is a resident of Columbus, Ohio, wherever that's located in the County. I don't know.

[fol. 281] Q. Did you know of the proceeding against Mr. Dombey in the Franklin County Court of Common Pleas, Number 189,110, in which Mr. Dombey was suspended from August 1, 1954, to July 31, 1955?

A. Yes, sir.

Q. And he was appointed Regional Counsel by you with knowledge of that fact?

A. Yes, sir.

Q. I believe you said you thought he had paid his full debt was the language you used once before?

A. I think that's probably true. I knew that he was an attorney for the AFL and the CIO and all of the other railroad Brotherhoods and that was the contributing factor by which he was appointed.

Q. He is still Legal Counsel now?

A. He is for that particular city.

Q. For Columbus?

A. Columbus, Ohio.

Q. Did you know Mr. Philip Lush?

A. Yes, sir.

Q. You were aware of the fact—I believe you have previously testified—that he had been enjoined in Montana?

A. I think that he was enjoined in Montana as a result of an old firm connection.

[fol. 282] Q. Whatever the reason, he was enjoined?

A. Yes.

Q. He was Regional Counsel then?

A. Yes, sir.

Q. And he still is Legal Counsel now?

A. Not for Montana, but he is a Legal Counsel.

Q. Well, that fact has no bearing on your estimate of his qualifications?

A. No, sir.

Q. Now, Mr. Thomas Davis, you say, is deceased?

A. Yes, sir.

Q. His partners were Eugene Rerat and Carl Yaeger and Philip Lush?

A. Yes, sir.

Q. As a firm they were Regional Counsel, were they not, when they were involved in disciplinary proceedings in Washington State from 1956 and '57?

A. Yes, sir.

Q. And each of those gentlemen, except Mr. Davis, of course, who is deceased, are still Legal Counsel?

A. Yes, sir. However, the case was satisfactorily disposed of.

Q. Do you know the case of In re: McDonald in 282 Northwestern 677, which happened in 1938?

A. I knew what it was, yes.

[fol. 283] Q. Mr. McDonald was a partner of Mr. DeParcq?

A. He was a partner. However, I don't think he had any connection whatsoever with the Brotherhood.

Q. Well, in the first place, in that proceeding he was disbarred for solicitation, was he not?

A. Yes, sir.

Q. And then there was a rehearing which is recorded in 284 Northwestern 288, in 1939, and then in 1940 in the proceeding in 294 Northwestern 461 he was reinstated. I think we should point out both sides of this situation.

A. Well, regardless of the fact, McDonald was never a so-called attorney for the Brotherhood of Railroad Trainmen.

Q. Well, just a few days after that proceeding, he was appointed as Regional Counsel, was he not?

A. I think Mr. Whitney had him on doing special work, but I don't know as he was a Regional Counsel in the handling of legal aid matters.

Q. Are you sure of that, sir?

A. I am not so certain, because that happened before I became President, but he has died a good many years ago, of course.

Q. Yes. Isn't it a fact that he died a Regional Counsel handling injury cases for the Brotherhood?

A. I am not so certain about that. I wouldn't know about that, because his former partner, DeParcq, still is alive [fol. 284] and he was removed.

Q. As soon as he died, Mr. DeParcq was made a Regional Counsel, wasn't he?

A. Mr. DeParcq was made a Regional Counsel and removed as a Regional Counsel.

Q. When was he removed, do you recall?

A. I wouldn't know. Mr. Whitney did that before I became President.

Q. Now, of course, you know and we have already talked about the proceedings against Henslee & Henslee. There isn't any point in going through that again?

A. No, sir, there isn't. However, in the proceedings against Henslee & Henslee in the State of Illinois, they were vindicated by the Court.

Q. Well, it's very obvious that you have not relieved anybody as a result of that?

A. No, sir, I have not, although Mr. Henslee, Sr., has died.

Q. Yes. Now, do you know a Mr. John Donneghan, D-o-n-n-e-g-h-a-n?

A. I can't say as I know who he is.

Q. Well, he was an associate for your Regional Counsel in Syracuse, New York, McElroy, Martin, Young & Dunn.

A. That's possible, although—

Q. Mr. McElroy is now dead?

[fol. 285] A. Mr. McElroy is dead.

Q. And Mr. Donneghan is now your Legal Counsel?

A. Yes, sir.

Q. And he was your Regional Counsel before this change?

A. Yes, sir.

Q. Did you know Mr. Joseph G. McGlynn?

A. McGlynn? Yes, sir.

Q. He was your Regional Counsel in East St. Louis, I believe?

A. Yes, sir.

Q. Did you reappoint him?

A. Yes, sir.

Q. Did you know that he had been enjoined from soliciting cases in North Carolina and transporting claimants to East St. Louis?

A. I didn't know anything about that.

Q. You didn't know about that proceeding?

A. No.

Q. That was in the Superior Court of Buncombe County, North Carolina, and the style of it was State ex rel somebody who was the attorney general or what-not against Hice and Joseph B. McGlynn and others.

A. I see. I wouldn't know. That probably happened a good many years ago.

Q. It happened the year before you became president.

A. I wouldn't remember.

[fol. 286] Q. The decree was entered on May 12, 1948, and he was enjoined from practicing in North Carolina, from advertising in North Carolina, from soliciting in North Carolina, and from transporting claimants from North Carolina to East St. Louis for conferences. Now, is he dead?

Mr. Henslee: Yes.

A. The McGlynn that you are talking about is dead.

Q. Joseph B.?

A. Yes, sir, he is dead.

Q. Now, you say that you investigate these people, particularly for character?

A. Yes, sir.

Q. Did you investigate about Mr. McGlynn?

A. No, I didn't, because that happened before I became President.

Q. That happened before?

A. Yes.

Q. But he survived and was a Regional Counsel while you were President?

A. That's true.

Q. And you had to reappoint him?

A. I did.

Q. And what investigation did you make of him to ascertain about this situation, any?

A. Probably at that time I probably called his attention [fol. 287] to the violation, which happened hundreds of miles away from East St. Louis, Illinois, and told him that we wouldn't countenance that.

Q. In other words, he must confine his activities to a narrower location?

A. No, I told him he must confine his activities to the law and the policy of the Brotherhood as prescribed to by the President.

Q. Now, did you consider all of these men that I have named met the standards that were set-out by Mr. Maher in the Brotherhood's answer to the request? That's Paragraph 21 of that Paper 12.

A. Yes, I did.

Q. Now, new appointments that you have made, I understand that it's your general policy to publish those appointments in the Trainman News?

A. I think that we have done that.

Q. Well, I believe you testified before that it was your general policy—

A. Yes.

Q. —to put their picture in there and their background and also their qualifications?

A. Well, I wouldn't see anything wrong with that, putting the picture of an attorney in a paper and saying who he is.

Q. You have on October 1, 1960, appointed Mr. Robert E. [fol. 288] McGlynn as the Legal Counsel of the Brotherhood of Railroad Trainmen for East St. Louis, Illinois, and you appointed him on October 1, 1960, did you not?

A. Yes, sir.

Q. Now, to ask you a little about who he is, he is the nephew of Mr. Dan McGlynn, is he not?

A. Yes, sir.

Q. He is the nephew of Joseph B. McGlynn?

A. Yes, sir.

Q. I get all this information from the Trainman News.

A. That's good. We want you to read it.

Q. He is the son of Robert E. McGlynn?

A. Yes, sir.

Q. And he was a partner of Dan McGlynn, who was the former Regional Counsel?

A. Yes, sir.

Mr Henslee: He still is.

Q. Now, all of that detail, that is in the Exhibit Kennedy Number 2, I believe, on the second page?

A. Yes.

Q. There is his picture and there is the article about him?

A. Yes, that shows the Brotherhood has no hidden secrets, that we like to tell everybody who our attorneys are.

Q. Fine, sir. Could it be possible that it was put in there so that members would know to whom to apply?

[fol. 289] A. Oh, that's up to them. It was put in there for the purpose of letting everybody know who he is.

Q. Now, you admit, then, that it shows it was put in there with the idea that they might employ him?

A. Oh, they could if they wanted to. They do anyway, so what's the difference.

Q. Oh, they would? I see. Now, then, is the custom for Legal Counsel to appear at conventions and what-not and discuss legal aid?

A. No, I would say that that's not the—

Q. I am not saying there is anything wrong with that, sir. I go around to law meetings and talk about various things.

A. No, it isn't the custom. I don't recall of them appearing before conventions and making any discussion other than the general counsel.

Q. I want to call your attention to an article that appeared in the Trainman News on April 10, 1961, in that connection. This happens to be a photostat about it. Columbus, Ohio, a meeting of Lodge 72 and a party that they had, and in the course of that report this is said. "Keith E. Roberts, attorney in the legal counsel firm of Henslee & Henslee, delivered a brief talk on legal aid. He was accompanied by Bob Moss, BRT Investigator."

A. Yes.

Q. Would you have any occasion to doubt that that is a [fol. 296] fact?

Mr. Bowles, Jr.: Don't talk to the witness, if you don't mind. I'd rather have his testimony than yours, Mr. Henslee.

Mr. Henslee: All right.

A. You asked the question that I properly answered before about whether our attorneys attended conventions. Now, I told you that our attorneys did not attend conventions and I still hold that to be a fact, because we hold a

convention every four years and we have no attorneys appearing before the 1100 delegates of our Brotherhood. Now, what you are referring to here is not a convention. It's a subordinate lodge meeting of a small group of members in a particular lodge, in a particular city, for a particular purpose. The lodge may have been 50 years old or 60 years old or 70 years old and they invite individuals to their particular lodge beyond the control of the President. And if this is a statement from Trainman News, I assume it's correct. I assume it's correct that they were there.

Q. Now, you and I are talking about two different things overlapping. The reference I had before to conventions was in relation to a totally different subject and I think you are quite right, I just don't know, sir, but the thing I am addressing my attention to, I use conventions in the form of meetings or any kind of a thing—
[fol. 291] A. Yes.

Q. —and the reason I ask you that is to point out that there are Brotherhood of Railroad Trainmen investigators now and we have all agreed that they carry cards on occasions.

A. Yes, sir.

Q. Now, here is an occasion—and you would have no reason to dispute the accuracy of it, I take it—in which a lawyer who is an associate in a firm of one of your Legal Counsel and one of those investigators both undertook to go to a lodge meeting and explain how this thing worked.

A. I understand.

Mr. Stallard: Counsel for defendant objects to this line of testimony inasmuch as counsel for the complainant is arguing his case for the Court, and on the further ground it has nothing to do with the issues at bar.

Q. Mr. Kennedy, you would assume from that article that what it set out there is correct?

A. I have every reason to believe that that's a correct statement.

Mr. Bowles, Jr.: Would you file that, please, as an exhibit with your testimony?

Mr. Stallard: Counsel objects to this being filed, because [fol. 292] it has nothing to do with the issues at bar. It re-

fers to a meeting of a lodge which was held in Columbus, Ohio, April 10, 1961. And on the further ground that the President of the Railroad Trainmen says that he cannot control what might happen in a local autonomous lodge.

(Article from Trainman News, 4/10/61, marked, "Complainant Exhibit K-5.")

Q. As President of the Brotherhood and defendant in this proceeding, do you concede that what Mr. Stallard has just said is correct, that you cannot control the operation of this department?

A. What Mr. Stallard said is correct to the extent that we have more than 1100 local lodges within the Brotherhood. They hold their autonomous rights under our Constitution to have their meetings, their banquets, their birthday parties or whatever they may call them. They frequently call in attorneys that have no relationship whatsoever with the Brotherhood of Railroad Trainmen. They are local people. They frequently call in the attorney generals of the State. They frequently call in the County attorneys. They frequently call in the City attorneys. We have no control over who they call or how they call them or what kind of a meeting takes place. That's their business exclusively.

Mr. Henslee: I would like to at this point interpose also [fol. 293] that Mr. Stallard did not say that the President did not control the department, he said they could not control the local lodges.

Is that correct?

Mr. Stallard: Yes.

Q. The local lodges Secretaries are in effect your investigators now. Now, are you willing to say you can't control them?

A. I can control them, yes, sir.

Q. How do you do that?

A. By writing them a letter.

Q. Suppose they don't obey it?

A. Don't obey it?

Q. Yes.

A. Then I could remove them from office.

Q. Can you yourself at the Grand Lodge remove a Secretary from a local lodge?

A. Yes, sir, I can do that.

Q. Under what part of your Constitution do you have that power?

A. We have a part of the Constitution that if he violates any provision of our Constitution or law, we can remove him, but subject to a trial, of course.

Q. But isn't it that the local lodge has to remove him, [fol. 294] doesn't it?

A. The local lodge—it all depends on what the violation is. The local lodge would have a jurisdiction over the individual local member, but it all depends on what this violation happened to be.

Q. Well, suppose it was a violation of the Illinois decision?

A. Then I would have a right to prefer charges against him and remove him.

Q. You would have a right to prefer charges against him?

A. Yes.

Q. And if the local lodge decided he wasn't guilty, you couldn't remove him, even though you thought he was?

A. We could remove him, even to the extent of removing the charter of the lodge, if we found that was necessary.

Q. The other point which you mentioned about conventions the time I asked you about that before, I was talking about contributions of former Regional Counsel, based on the time involved at a convention that legal aid matters were discussed, as a means of finishing out what this contribution was back under the old system. That's what I was talking about.

A. Oh, I see.

Q. Now, we agreed, I believe, that was done?

A. That is right, we did.

[fol. 295] Q. Now, you have said, I believe, and you contend that you have no control now over what the charges made by Legal Counsel to members are in handling personal injury cases. You as head—

A. Oh, you mean—I see. When you are talking about charges, you mean—

Q. Money charges.

A. You are talking about money?

Q. Yes.

A. No.

Q. That's the main object of everybody in this day and time.

A. No, we have no control whatsoever over what that may be.

Q. No control over that?

A. No, sir.

Q. Let's take Mr. Savage as just an instance, because he happens to be in the territory that we are interested in. If Mr. Savage persistently charged the members that he represented in their personal injury suits in FELA cases 50 percent, what would you say?

A. I would say that's exorbitant.

Q. Would you do anything more than say that?

A. Yes, I certainly would.

Q. What would you do?

A. I would probably remove him from his position as an attorney for the Brotherhood.

[fol. 296] Q. Then you do have a control over him, don't you, right at this moment?

A. At least to that extent.

Q. Yes. And at what point would you remove him if he charged more than a certain percent?

A. Well, that would be a question of policy as to what the facts were. It all depends on what the facts are.

Q. Do you have any information about what percentages are now charged by your Legal Counsel?

A. No, I have none whatever.

Q. Well, if they charged more than 25 percent, would you continue people who persisted in doing that?

A. It all depends on circumstances, I would say.

Q. Well, then you would retain the privilege in appointing a Legal Counsel of firing him at any time that he charged more than you thought was proper?

A. I would say that's correct.

Q. Do you have any understanding with them to that effect?

A. No, sir, I have none whatever.

Q. I want very briefly, Mr. Kennedy, just to inquire as to your familiarity with these proceedings, and I hope I can do it as briefly and quickly as possible. These are proceedings in the law books in which the Brotherhood of Railroad Trainmen or your Regional Counsel have been involved. I ask you first of all, I think you have already [fol. 297] said that you knew about the one that was a petition of a committee under Rule 28 of the Cleveland Bar Association, cited in 15 Ohio Law Abstract 106 in 1933. That was the first one, I believe, and the firm of Newcomb, Newcomb & Nord was involved. We have talked about that before?

A. Yes, sir.

Q. You know about that back history?

A. Yes, sir.

Q. The second one I think we mentioned was Dworcen against Brotherhood of Railroad Trainmen Grand Lodge in Cuyahoga County, Ohio, in '32. We have mentioned that one.

A. Yes, sir.

Q. The third case I want to bring to your attention is Ryan against Pennsylvania Railroad Company in 268 Illinois Appeals 364. That was in 1932. The case involving, I believe, Mr. Ryan's right to recover an attorney's lien and he was allowed to recover the lien. You know about that case? I don't mean as a lawyer, sir, but you have heard about it?

A. No, I probably haven't. See, these cases that you are bringing up happened nearly 30 years ago. It's difficult for me to say that I know all about it, because I don't. I may have read about it in the records.

Q. I don't mean to imply that you know all about it or the details, I do mean to imply this, however, that you are the President of this Brotherhood; you are directly responsible [fol. 298] for the manner in which its present Department of Legal Counsel is conducted and, were from '49 until '59 directly responsible and in control of its Legal Aid Department. Now, in the course of your investigations of the history of that department and its methods of operation, and so forth and on, I do ask you as regards to your familiarity in that study. Now, are you familiar with the

case of *In re O'Neil*, which was in 5 Federal Supplement 465, in the District Court of the Eastern District of New York in 1933?

A. No, sir, I never heard of that.

Q. Did you ever hear of that case?

A. No, sir.

Q. Did you ever have occasion to read in that case in which the same counsel, Mr. Ryan, was censured and criticized? This I quote, "Cook County, Illinois, may not require adherence to canons of ethics of the American and New York Bar Association," end of quote, "adopted by this Court as standards for professional conduct."

A. I think that that's true and, if I am not mistaken, that Ryan was removed by my predecessor, Mr. Whitney, because of that particular controversy.

Q. Well, that was another warning to your predecessor, Mr. Whitney, as to what was going on?

A. And he removed that man, as I remember.

Q. Now, *Young against Gulf Mobile & Ohio Railroad* in [fol. 299] the United States District Court for the Eastern District of Missouri, decided in 1946, involved Mr. DeParcq, a question of comity as to whether Mr. DeParcq would be allowed to appear in the Federal Court there.

A. And Mr. DeParcq was eventually removed.

Q. Mr. DeParcq was allowed, however, to appear in that case by putting these very exhibits that we have mentioned into the record, I believe, and testified just how this department worked and testified about Mr. Whitney's letters and said that all fee splitting had ended?

A. That is right, he was eventually removed by Mr. Whitney.

Q. In *Reynolds against Gulf Mobile & Ohio and Texas Pacific Railroad* in the District Court for the Eastern District of Tennessee in 1946 there was an action to resist the appearance of Mr. Joseph B. McGlynn, the Regional Counsel, and there again it was said that there was no fee splitting. Do you know about that case?

A. No, sir, I do not.

Mr. Stallard: Counsel for the defendant objects to questioning the witness on these cases, of course. It's a question

of law what happened in those cases and the cases can be introduced and that would be the best evidence.

Mr. Bowles, Jr.: I am only asking whether or not this witness has any familiarity with them as head of this [fol. 300] department in the light of his investigations into Regional Counsel and the past history of this department.

Q. Now, the other is the State of North Carolina against Hice and McGlynn and others in Buncombe County, 1948. We have already referred to that situation. I don't recall whether you said you knew about that situation or not where Mr. McGlynn was enjoined in North Carolina?

A. No, I don't. I had never heard of that.

Q. Now, you said you did know, I believe, about the Hildebrand case against the California State Bar in 1950?

A. I think that I did know something about that case.

Q. That was a disciplinary proceeding in which Mr. Hildebrand was censured, reported in 36 Cal. (2) 504, 225 Pac. (2) 508. I believe you said you also knew about the State Bar of Texas against Hildebrand in the District Court of El Paso County in 1952—

A. Yes, sir.

Q. —where Mr. Hildebrand was enjoined. The case of Atchison, Topeka & Santa Fe Railroad Company against Jackson in 1956, reported in 235 Fed. (2) 390, involving the firm of Davis, Rerat, Yaeger & Lush. There was an objection in that case to the appearance and they allowed to appear, and there was a dissenting opinion in which the solicitation by Mr. Maroney was criticized. Did you ever [fol. 301] hear or know of that opinion?

A. No, I have never heard of that.

Q. The next one I want to call to your attention is In re Brotherhood of Railroad Trainmen, 150 N.C. (2d) 163, 13 Ill. (2d) 391, 1958, in which the judgment was handed down May 23, '58. Now, that's the Illinois decision that you through Mr. Henslee initiated?

A. Yes, sir.

Q. Now, you have already said that you knew about State ex rel. Beck against Lush, Clinlenbeard, and various lodges in Nebraska?

A. Yes, sir.

Q. And that was a consent decree, I believe, in which an injunction was entered by the Supreme Court of Nebraska on May 6, 1960?

A. That was settled satisfactorily to the Attorney General.

Q. You supervised that?

A. Yes, sir.

Q. Now, Iowa State Bar Association against Davis, Rerat, Yaeger & Lush and Clinlenbeard in the District Court of Iowa, Pottawattamie County, Council Bluffs, Iowa, that one is pending, I believe, is it not?

A. No, sir, it's disposed of.

Q. How was it disposed of?

A. To the satisfaction of the Attorney General of Iowa.

[fol. 302] Q. Was a consent decree entered?

A. Yes, sir.

Q. That was begun in 1955?

A. Yes, sir.

Q. What did the Brotherhood agree to do, desist from doing what?

A. The stipulation spoke for itself. It was similar to what they did in Nebraska.

Q. In Montana Bar Association against Davis, Rerat, Yaeger & Lush, in 1958, District Court of the County of Yellowstone, in the 13th Judicial District, involving a charge of solicitation, is that one pending?

A. Yes, sir.

Q. In Hulse against Brotherhood of Railroad Trainmen, Kennedy, Maher, Lush, and McGlynn in the Supreme Court of Missouri, there was a consent decree and an injunction entered, I believe, was there not?

A. It was satisfactorily disposed of.

Q. There was an injunction?

A. Yes, sir.

Q. In the State of Oklahoma against Brotherhood of Railroad Trainmen, Kennedy, Maher, Payne Ratner, Sr., and Payne Ratner, Jr., both of whom were Regional Counsel at the time, I believe, the Supreme Court of Oklahoma entered a consent decree on April 26, 1960, in which there was [fol. 303] an injunction, I believe, is that correct?

A. No, I don't think that is correct, as I recall.

Q. Do you know about the proceeding?

A. I understand about the proceedings, but I think that the proceedings against the Brotherhood of Railroad Trainmen was dropped.

Q. Well, that proceeding will speak for itself, of course.

A. Yes, sir.

Q. Well, if there was an injunction entered, do you know against whom it was?

A. I think it was against the Legal Counsel, but not against the Brotherhood.

Q. Are they still Legal Counsel?

A. Yes, sir.

Q. The State of Oklahoma against Charles E. Wilson, Regional Investigator, and an order of the District Court of Muskogee County, Oklahoma, on December 23, 1950, enjoined for soliciting, do you know about that proceeding?

A. No, I don't recall that.

Q. Do you know about the agreement between Mr. Savage and the West Virginia Bar entered on June 10, 1958?

A. Yes, sir.

Q. And do I understand that you had undertaken to supervise that agreement?

A. I told Mr. Savage when he brought the matter to my [fol. 304] attention that I thought that he should meet with the Bar Association and those qualified.

Q. Did you look at the agreement and approve it before it was entered?

A. No, I don't think I did.

Q. Would you recognize it if you saw a copy of it?

A. Oh, I think I would.

Q. Would you have any objection to filing it as an exhibit with your testimony?

A. I have got no objection, because it is an exhibit—or it is an agreement that was made by the Brotherhood.

Q. The reason I ask you about that is that it was my understanding—I don't know whether I am correct or not—that Mr. Savage and the West Virginia Bar entered into some stipulation about that being kept confidential and that the West Virginia Bar published it or did something

with it—anyhow, it became public property—and I did not want to violate any confidence.

A. I don't see how you would keep a document like that confidential.

Q. I did not think so.

A. No, I didn't intend to keep it that way.

Mr. Stallard: Counsel for defendant objects to the introduction of this instrument and states that he is the counsel for the Railroad Brotherhood and that is the reason [fol. 305] he objects to the introduction of a mimeographed instrument purported to be some contract entered into by Savage on the 10th of June, 1958, which was prior to the Illinois decision, or at least the effectiveness of the decision.

Mr. Bowles, Jr.: Counsel for the complainant says that from the testimony of the witness it is obvious that it is admissible.

If you will please mark that.

(Agreement, 6/10/58, between West Virginia State Bar and Bernard M. Savage, marked, "Complainant Exhibit K-6.")

Q. Are you familiar with the case of State Bar of Michigan against the Brotherhood of Railroad Trainmen and others in the Circuit Court of Jackson County in Chancery?

A. Yes, I understand there is such a case pending.

Q. That was instituted, I believe, in January of 1959. I am not sure of my date about that.

A. I think that's about correct.

Q. I am sorry I don't have the proceedings themselves before me at the moment. I understand that the complaint was amended and that Messrs. Edward B. Henslee, Jr., Martin K. Henslee, and John J. Naughton were added as additional parties as successors to E. B. Henslee, Sr. Do [fol. 306] you know about that?

A. No, I wouldn't know a thing about that.

Q. That is pending, is it not?

A. Yes, sir.

Q. And a hearing in that matter is set, I believe, for June 15, 1961?

A. I hope so.

Q. Is that correct?

A. I don't know, but I hope it is correct, because I want it over with as quickly as possible.

Q. Well, I believe that the charge is unauthorized practice of law and solicitation in Michigan. Do you know about that?

A. No, I don't.

Q. Well, have you had any familiarity with that as head of this department?

A. No.

Q. You have not discussed it with your counsel?

A. No, not to any great extent. I knew that there was such a thing pending, but apparently those in charge, the Bar Association or whoever is bringing that action, didn't seem to want to get the matter processed as quickly as I thought they should, and I thought that the matter should have been disposed of over a year ago, and why it isn't I wouldn't know.

[fol. 307] Q. As a matter of fact, Mr. Kennedy, the Michigan Bar would not accept a consent decree tendered, isn't that correct?

A. I presume that's one of the reasons why. I have no idea what's holding it up.

Q. I call to your attention this case amongst the lot of them. I think you said once before that you didn't know much about it. You know more about it now, don't you?

A. I know about it to this extent: that they brought this action against Mr. Henslee and that—

Q. I am talking about this case, this Virginia case.

A. Oh, the Virginia case? I thought you were talking about the Michigan case.

Q. No, I had passed that.

A. They kept the action against Mr. Henslee, who has been dead more than two years, and just amended it recently. Why I don't know. Why would they keep an action against a man that has died two years ago when they could have very properly changed it?

Q. I had gotten down to this case and called your attention to the fact that you had said in a previous deposition that you didn't know about this case and I am asking you whether you know more about it now?

A. I do. I think your questions were highly enlightening and it helped me considerably.

[fol. 308] Q. Now, I have to ask you this for the record, sir. Have you ever accepted any gifts or payments of gratuities or any other nature of payment from any Regional or Legal Counsel?

A. No, sir, I have not.

Q. Either before April 1, 1959, or after?

A. No, sir.

Q. Has any other officer of your Brotherhood ever accepted such a gift, so far as you know?

A. Not to my knowledge.

Q. Now, you are very familiar with the operation, with the way this thing is done, and you have displayed that in your testimony, sir? I believe your son, Mr. R. P. (Bud) Kennedy, was employed by Davis, Rerat, Yaeger & Lush, was he not?

A. That is right.

Q. He went there as an associate as soon as he got out of law school, I think, didn't he?

A. Yes, shortly after.

Q. A fortunate young man to find a place to go.

A. Yes, sir.

Q. It's right hard to find places. The Minneapolis directory for 1959 lists Mr. R. P. Kennedy, your son, as office manager for Davis, Rerat, Yaeger & Lush, I believe?

A. That is correct.

[fol. 309] Q. We have already agreed that firm was dissolved into three firms on December the 31st, '55, I believe?

A. I think that's about right.

Q. And your son is now with Davis & Lush in the Baker Building in Minneapolis?

A. He is with Mr. Lush. Mr. Davis has long since died.

Q. But the firm is still Davis & Lush, is it not?

A. I presume it is.

Q. I don't know how they do in other places, but a dead man can still appear on a letterhead if you show when he died.

A. I think that's a very unfortunate situation, but I guess they can do it.

Q. Now, you have an office on the same floor?

A. Yes, sir; a private office.

Q. And when you go out, you put a notice on the door to deliver mail at Davis & Lush?

A. To my son.

Q. To your son? Now, I hand you, Mr. Kennedy, another undated paper and ask you whether you know anything about it? It is headed, "Authentic information concerning the rights of our members under the 'Federal Employers' Liability Act.'"

And while he is reading it, sir, I want to say to you that we propose to show that appeared on the bulletin board [fol. 310] in the Union Pacific yards, I think in Chicago, during April of 1961.

A. No, that wouldn't be correct. There is no such a yard in Chicago.

Q. There is not?

A. No, sir.

Q. Then in a Union Pacific yard some place.

A. The Union Pacific doesn't come within 500 miles of Chicago.

Q. That I feared was a fact, sir, but do you know anything about that paper?

A. No, I would say that that probably has been—if it's similar to what I have seen, I would say that that has been in existence—I would say that that's been in existence for 30 years.

Q. Well, do you know who drew it up or who prepared it?

A. No, I have no idea. That was drawn up long before I became President and reproduced by people who are not even members of our own Brotherhood. You see—

Q. Do you put out any such thing as that now—

A. No, sir.

Q. —from your Legal Aid Department?

A. We do not.

Q. Or the Department of Legal Counsel?

A. We do not. You see, other groups put these out. [fol. 311] Engineers come under the law, firemen come

under the law, conductors. Other organizations probably put this out. It doesn't necessarily mean the Brotherhood of Railroad Trainmen.

Q. Well, I was just inquiring about it. But I understand from you that it was prepared in earlier years by the Brotherhood of Railroad Trainmen?

A. It might have been, but we have no assurance that it was, because I would say that that has been prepared a good many years ago, long before I became President.

Q. Well, what you have said is that it might have been prepared by your Brotherhood?

A. It might have been. I wouldn't say.

Q. It refers to the Brotherhood. Is there any other organization known as the Brotherhood?

A. Yes, sir, the Brotherhood of Locomotive Engineers, the Brotherhood of Locomotive Firemen and Enginemen, the Brotherhood of Maintenance Workers, the Brotherhood of Railroad Signalmen. We have got lots of Brotherhoods.

Q. Most of them are titled Brotherhoods, are they not?

A. Yes, that is correct. And they all come under the Federal Employers' Liability Act, too.

Q. Yes, of course. Now, this thing in Point 10 on Page 4—

Mr. Stallard: Counsel for the defendant must object to [fol. 312] this because it's unidentified as having anything to do with the case at bar or even that the defendant knows anything about it. It's a paper undated and unsigned and the examination is going far afield.

Mr. Bowles, Jr.: The purpose of my question that I was about to ask is to seek to identify it, if possible.

Q. In Point 10 on Page 4, it says, "Of special interest to switchmen, conductors and brakemen are the so-called Safety Appliance Acts." Now, switchmen and brakemen are particularly in your Brotherhood, are they not?

A. No, sir, they are not. The Switchmen's Union of North America represents a great many switchmen in the United States over which we have no control whatsoever.

Q. Don't you have most of the switchmen in your Brotherhood?

A. We have a large, substantial group, but we don't have them all.

Q. What is substantially the job activity that your Brotherhood covers?

A. Well, we cover a group of organizations, some of which are under the Federal Employers' Liability Act and others are not.

Q. Well, from your examination of this paper, would you be able to say whether or not with any degree of certainty [fol. 313] tainty that your organization had anything to do with this?

A. No, sir, I'd say that that isn't signed, it isn't dated. I'd have to take the position that we know nothing about it.

Q. Well, I call your attention on Page 2 of it to Point 2, where it says, "The Brotherhood of Railroad Trainmen has appointed certain attorneys as Regional Counsel of the Brotherhood who are skilled under the Federal Employers' Liability Act and with whom members and their families are entitled to consult regarding their rights. The Brotherhood has a direct interest in the welfare of its members and certainly one of its prime purposes is to take care of them when they are injured, or take care of their families when they are killed." Would that language indicate to you what Brotherhood they are talking about?

A. No, not necessarily, because they are talking about members who are killed and injured under the provisions of the Federal Employers' Liability Act and that could be any one of the Brotherhoods.

Q. Now, I want to point to the last paragraph on Page 5. "The foregoing is submitted to the members of the Brotherhood of Railroad Trainmen with the hopes that it will answer some of the many questions which confront members and officers of the Lodge when injuries or death result to members. It is furnished with the hope that it might assist the officers and members in protecting the [fol. 314] rights of injured Brothers and their families." Would you now say whether or not that was identified with the Brotherhood of Railroad Trainmen?

A. No, sir, I'd still say it was not necessarily a member of the Brotherhood of Railroad Trainmen, because that would apply to any one of the Railroad Brotherhoods.

Q. Well, it's in capitals. Capital B, capital B, capital T.

A. Anything that would be put out by the Brotherhood of Railroad Trainmen that's of an official capacity would be signed by the President. That's not signed. I have no idea who put that together.

Q. Well, you don't know anything about it?

A. No, sir, that's the first time I have ever seen it.

Mr. Bowles, Jr.: For identification, please, I would ask you to mark that as an exhibit with your testimony.

Mr. Stallard: Counsel for the defendant objects to this unsigned, undated paper, which could be anywhere from five to thirty years of age. I would say it's certainly not material to the issues in this case.

(8-page document entitled, "Authentic Information Concerning the Rights of our Members under the Federal [fol. 315] Employers' Liability Act," marked, "Complainant Exhibit K-7.")

Mr. Stallard: The exhibit has not properly been identified by the witness and therefore should not be an exhibit in this case.

Q. Mr. Kennedy, with regard to this paper which we have just been talking about, in essence what I read to you is one of the purposes of your Department of Legal Counsel, isn't it, to look after injured members when they are injured or killed?

A. That's in accordance with our policy, yes.

Q. Now, in Southern Pacific. Against Hildebrand, the California case, the firm there, I believe, was Hildebrand, Bills & McLeod, is that right?

A. I am not sure what the title is.

Q. I mean that is the firm, isn't it?

A. I presume that is their official title.

Q. And that case, is that pending, do you happen to know?

A. Yes, I think there is a case pending.

Q. There is a case pending against Mr. Hildebrand in California?

A. Yes, there is. It's not caused by any Bar Association, however.

Q. I understand. It's Southern Pacific against Hildebrand?

A. And the Santa Fe.

Q. Well, the Santa Fe is a cross complainant?

[fol. 316] A. I wouldn't know how they got into it, but they don't like the way Mr. Hildebrand operates.

Q. That is quite obvious from the proceedings. Now, Mr. Fred J. Bills and Mr. Charles C. McLeod and Mr. Clifford Hildebrand are your Regional Counsel, I believe?

A. No, sir, they are not.

Q. I don't mean to say Regional Counsel, your Legal Counsel under the new setup?

A. No, sir, they are not.

Q. Mr. Hildebrand is not?

A. Mr. Hildebrand is, but he is the only one that is.

Q. He is the one, but that is his firm? Those are his partners?

A. They may be partners and they may be parts of his firm, but they are not recognized by the Brotherhood other than Mr. Hildebrand himself.

Q. Do you know whether or not it is a fact that each of those gentlemen relied on their constitutional privilege to refuse to testify in that case on the ground of self-incrimination?

A. I have heard that, but nobody has officially called this to my attention.

Q. Well, if that would be true, would that affect you in continuing Mr. Hildebrand's appointment?

A. It might have quite an effect on whether or not I [fol. 317] would continue him.

Q. But you haven't gotten rid of him yet?

A. Officially it hasn't been called to my attention. Eventually I presume it will.

Q. Now, these Secretaries of the Grand Lodge that are now required to make investigations, those investigations, I understand, are financed by the Grand Lodge?

A. Yes, sir.

Q. Now, how do you do that?

A. Take it out of the general fund of the Brotherhood.

Q. Well, I mean how do you do it, just pay them per piece or by salary or what?

A. Yes. Well, it all depends on who they are. If I take them out of my office in Cleveland, Ohio, why, of course, they are on a salary. They are men that are employed in the headquarters.

Q. How many men do you have like that now?

A. I think there are about four working in the office.

Q. Are they assigned to any specific territories?

A. No, they are not.

Q. Who are those men?

A. I would say Mr. Maher is the Chief Clerk, and he has, I think, two assistants. I am not sure as to just who they are right now.

Q. You don't know the names of your investigators?

[fol. 318] A. I would say that Mr. Maher is the man that would do the investigating. Now, if he wouldn't be available, then we would use one of the others. I forget—

Q. Well, would Mr. Maher go to California to make an investigation?

A. Yes, he would go any place I sent him to.

Q. He, I understand, is ill?

A. Yes.

Q. In the hospital?

A. No, he is not in the hospital.

Q. How is he getting along?

A. He is convalescing at his home in Danville, Illinois.

Q. Do you think he will be available to testify in this case at some future time?

A. I doubt it, because he had a severe heart attack and I doubt whether he can testify or whether the doctor will permit him to.

Q. Who is running the office now in his place?

A. We just have a routine clerk who is just handling it until Mr. Maher's physical condition is normal.

Q. Well, do you have any records now of what payments have been made for these investigations since April of '61?

A. Since April of '61?

Q. I beg your pardon, since April of '59. That note was made late at night.

[fol. 319] A. Yes, I think that we would have records for money paid out as a result of investigations.

Q. Would they be available if we should find we would like to have them?

A. Yes, I think they would. Mr. Maher has made some investigations himself.

Q. Now, I understand that under your present plan that the member gets the results of these investigations free if he hires the Legal Counsel?

A. No, that isn't correct. They would get it free regardless of whether they hire the Legal Counsel.

Q. Well, now, if an injured member doesn't employ the Legal Counsel, then he has to pay for it, doesn't he?

A. No, he does not.

Q. Haven't you so testified before?

A. There may have been a time when we felt that he should pay for it, but we have discarded that theory and now we would give him the results of our investigation without cost.

Q. Now, if he hires somebody that is not a Legal Counsel, what are the conditions, if any, upon which he can have that?

A. He could still have it, but we would give that to him with advice to hire a competent, qualified individual that would protect his case.

[fol. 320] Q. Now, he would get that or not depending on the reputation with labor of the lawyer he employed, isn't that a fact?

A. No, sir. Well, I would say that if we had a record of some unscrupulous individual that we knew was taking advantage of injured railroad employees, we certainly wouldn't recommend that he give that result of that investigation to such an attorney, but if this man had a reputation of being fair and reasonable, we have no objection to giving it to anybody.

Q. Well, you do give it or withhold it depending upon your opinion of that lawyer?

A. Yes, I think we would.

Q. You have said, for example, I believe, in a prior deposition that whether the member got the benefit of this investigation would depend on whether the lawyer he hired was in good standing with labor? If he was, he could have it, and if he wasn't, he couldn't?

A. I would say it would be dependent upon whether he was in good standing with labor and in good standing with the Bar Association.

Q. You also said before, I believe, and I quote, "If he were some bird antagonistic to labor, the price would be very high. I would say that."

A. If he was antagonistic to labor and we felt that he [fol. 321] wasn't going to give the individual that had been killed or injured a square deal, we wouldn't give it to him at all.

Q. Well, it all comes down, then, to the fact that these investigations now made by your Local Secretaries of lodges, who are now performing the functions of the old Regional Investigator, that are sent on to the lodge, that if a member requests that, whether he can have it or not at all depends on your opinion of the lawyer that he employs?

A. Not necessarily. He wouldn't have to employ a Legal Counsel for the Brotherhood. We would still give it to him and he could use any—

Q. Providing you approved that lawyer?

A. I would want to know that he gave it to a competent, qualified attorney. And that would be especially true if it was a widow, because so many of these attorneys have taken advantage of widows over my 50 years' experience in the Brotherhood that I certainly wouldn't want a widow to step into a situation where she was going to lose from 50 to 60 percent of what she is entitled to under equity.

Q. Irrespective of your reasons, now, Mr. Kennedy, you do reserve control as to whether you will or will not give out this information to your members which the Brotherhood Investigators have gotten?

A. No, sir, that's not true. In the first place, the investigation is made, as I told you previously, for [fol. 322] statistical purposes. We want to know why the man got killed. We want to know how he got killed. We

want to know the region in which he got killed. We use that in Washington for statistical reasons. Now, then, we also will provide the individual member of our Brotherhood, if he is in good standing, with a copy of that proceeding, and he can use our Regional Counsel or he can use any qualified attorney that he may select to handle that case for him. All he has got to do is to write in and tell us what he intends to do with those papers.

Q. But I am asking you now whether he can get them or not?

A. Yes, sir, he can get them.

Q. Well, I call your attention to your testimony in the proceeding in the State of California, County of Los Angeles, in the Superior Court of the State of California, in and for the County of Los Angeles, in Southern Pacific Company, a corporation, plaintiff, against Clifton Hildebrand and others, defendants. W. P. Kennedy, individually, and in a representative capacity for and on behalf of the Brotherhood of Railroad Trainmen, an international labor organization, its officers and members, Number 727 273, deposition given by you at 1:30 o'clock, P.M., Wednesday, October 5, 1960, at Suite 810, 139 North Clark Street, Chicago, Illinois, before Irving Ross, a notary public in and for the County of Cook, State of [fol. 323] Illinois, pursuant to stipulation, and filed in that proceeding. Now, you were asked with regard to these reports this question: "And these reports will be retained by the Grand Lodge, and supplied only to members, upon their request?" To that question you answered this, did you not, "To the members, upon their request"?

A. Yes, sir.

Q. Then you were asked, "And an injured member, who employs one of the Brotherhood's Legal Counsel, will be supplied this information without costs? You answered that question by saying, "That is right"?

A. Yes, sir.

Q. "If they ask for it, they can get the service without cost"?

A. Yes, sir.

Q. "Yes. And as to members who employ counsel other than legal counsel designated by the Brotherhood, some small charge will be made to them?"

"Answer. I don't know as to whether I would say that. It depends upon the circumstances. We may have a Legal Counsel that would have a territory that would be a thousand miles away. For various reasons, somebody would want to retain a local counsel, for all intents and purposes, that had a good reputation. We would furnish that information to them free, without asking them to pay for that [fol. 324] service. Why? Because it would be a convenience to the individual member."

Now, this question:

"Question: For instance, if the member resided, and his accident occurred in the city in which Legal Counsel retained his office. If he retained a lawyer, other than Legal Counsel, in that circumstance, some small charge would be made?"

Did you not answer, "I don't know that it would. If he was an attorney in good standing with labor, he could have that information. If he was some bird antagonistic to labor, the price would be very high. I will say that."

A. If he was antagonistic to labor, I am not so sure that that statement wouldn't be correct, because he wouldn't have any particular sentiment nor neither would he feel that he was protecting this individual that belonged to a labor organization in the same way that I think he should be protected.

Q. Who would decide that fact, you or the member?

A. I think possibly the member would have to decide that himself or the widow; particularly the widow.

Q. But if she didn't decide it the way you thought it ought to be decided, she wouldn't get the results of the investigation?

A. She would eventually get the investigation. I would [fol. 325] say that she would, but I would certainly caution her that this individual was an individual that had a reputation that wasn't for protecting laboring men.

Q. Would the word "eventually" imply that that would mean at a time when you were convinced that it was im-

possible to get these people into the hands of your Legal Counsel?

A. No, sir, I wouldn't say that the question of the Legal Counsel had anything to do with it whatsoever.

Q. Why the distinction between Legal Counsel and other lawyers?

A. Because there is a distinction between our Legal Counsel and other lawyers. Some other lawyers are so unscrupulous that they would take 75 percent of a widow's equity if they could get their hands on it, and I want to be sure that the individual attorney, whoever it happens to be, is one that has got a fair and reasonable reputation.

Q. How would you say that the percentage of other lawyers who had been brought before Bar Associations for improper action would compare with the percentage of your Legal Counsel?

A. I would say there is a great many of them, and I read it in the papers every day, that's brought before Bar Associations because of their unscrupulous methods. And corporation lawyers are no different than many other lawyers.

Q. Do you know what is done with people in the Bar [fol. 326] Associations who are found to do those things?

A. Yes, I do know.

Q. What is done with them?

A. They are censured or they are expelled.

Q. What do you do with yours that are found to do those things?

A. I would do the same thing.

Q. You have not up to now?

A. No, I haven't found any particular reason to up to now.

Q. I want to ask one more question. With regard to this Illinois opinion, your attitude about the Illinois opinion, if I understand it correctly, is that if it's satisfactory to Illinois, then you think it ought to be satisfactory to all the other States?

A. No, that's not correct.

Q. That's what you said, didn't you?

A. No, your impression of what I said isn't just exactly correct. If you want my correct interpretation, I will tell you.

Q. I would like to have it.

A. Well, let me tell you what it is. It's satisfactory to the State of Illinois. Now, it will be satisfactory, as far as the Brotherhood of Railroad Trainmen is concerned, in every other State except that State that wants its own stipulation. Nebraska wanted its own stipulation, Missouri [fol. 327] wanted its own stipulation. Other States have asked for their own stipulations, such probably as West Virginia. Now, we have no way of knowing what the rest of these States want. If they bring up the question, then we sit down and work out the answer. The same thing will be true with Virginia.

Q. Well, did you not testify in the case that I just quoted from, "I feel that, if we have a satisfactory decision that pleases the Supreme Court in this state, there is no reason why it shouldn't please the courts in other States"?

A. I think that's reasonable, unless they find justification otherwise.

Mr. Bowles, Jr.: I have no further questions.

Redirect examination of William P. Kennedy.

By Mr. Stallard:

Q. Mr. Kennedy, has any lawsuit been brought against the Brotherhood or any Legal Counsel on cases of injury or death of members subsequent to April 1, 1959?

A. No, not to my knowledge.

Q. In other words, the cases which counsel for the Bar has been referring to are based upon cases of injury and death that happened prior to April 1, 1959?

A. That's correct.

[fol. 328] Q. And you have identified a letter which was marked Exhibit 3(a), dated March 16, '59, addressed to all Legal Counsel of the Brotherhood of Railroad Trainmen and signed by you, in which you state among other things, "In compliance with said opinion, any Legal Counsel who represents the Brotherhood is hereby instructed and required to live up to said opinion in its entirety and any violation shall be cause to remove such attorney,

and the same shall be reported to the Bar Association of the particular State in which such violation may occur." What information would you have to have, when you refer to "any violation shall be cause," before you would refer a matter to the Bar Association or remove the attorney?

A. I would want information from authentic sources to indicate that this attorney representing the Brotherhood of Railroad Trainmen was handling his affairs in a highly unethical manner and was not representing the Brotherhood as instructed in this letter of March the 16th, 1959.

Q. You have been asked a question about an Attorney Hildebrand in California and some other gentlemen, who you say do not represent the Brotherhood, pleading the Fifth Amendment. Do you know anything about the circumstances yourself or is it all hearsay at this time?

A. The only official action—the only official notice that I have been advised of was investigators that were [fol. 329] also involved in that case, and when that was brought to my attention, I removed all of the investigators that were involved. Now, then, I understand now that since then there has been some court action in which Mr. Hildebrand and possibly others took the so-called Fifth Amendment. When that's officially brought to my attention, I will take action accordingly.

Mr. Bowles, Jr.: If I may interrupt, Mr. Stallard, to get you straight. I don't believe I referred to it as the Fifth Amendment and I am not sure that it is the Fifth Amendment. I think it had better reference to some requirement in California rather than the Federal Constitution, if I am not mistaken.

Mr. Stallard: I thought you used the words "Fifth Amendment."

Mr. Bowles, Jr.: I did not. I specifically said "self-incrimination."

Mr. Stallard: Oh, self-incrimination? All right.

Mr. Bowles, Jr.: Off the record.

(Discussion, off the record.)

By Mr. Stallard:

Q. Mr. Kennedy, does the Brotherhood have Investigators now on its payroll located in the various States or [fol. 330] are they all located here in Cleveland?

A. They are located in Cleveland, Ohio.

Q. And how many do you say that you have?

A. I would say right now we have just got two that's on full time.

Q. The Secretaries of the various lodges are required under the Constitution to make reports to the Grand Lodge, are they not?

A. The Secretaries of the various lodges are required to make all the reports from that particular lodge on any particular subject.

Q. Are they paid by the Grand Lodge for that work?

A. No, sir, they are paid by the subordinate lodge for that work.

Q. Do the subordinate lodges have their own Constitutions and Bylaws?

A. Yes, sir, they do.

Q. Do you appoint those Secretaries as your Investigators?

A. No, sir. The local lodge elects the Secretary and they automatically become the Investigator.

Q. Well, now, as I understand it, you have only approximately four Investigators that might carry your Investigator card at this time?

A. No, that wouldn't be true. The local lodge Secretaries have investigating cards. That gives them the right [fol. 331] to investigate any particular accident that may occur. Other than that individual lodge officer that has a card, nobody else has these cards. In other words, there is no so-called investigator that travels from one end of the country to the other with any of these cards; it's all confined to the local lodge.

Q. Well, a few years ago, prior and subsequent to April 1, '59, you did have several investigators?

A. Oh, we had a large number of them.

Q. How many members are there of the Brotherhood of Railroad Trainmen?

A. There are approximately 200,000.

Q. Do you take the position that the Brotherhood of Railroad Trainmen has the right to make known to its members attorneys and information which they may have gathered in the investigation of accidents and death?

A. Yes, we have that right.

Q. You take the position, then, that you have the right to advise your injured members, and also the families of those who have been killed, of attorneys whom you consider proper?

A. That is correct.

Q. Are you doing any more than that at this time?

A. No, sir, we are not.

Q. If it were shown by the Bar of Virginia that any of [fol. 332] your employees or people that you might direct were going farther, do I understand you would remove them if you could?

A. I would certainly assess discipline.

Q. You are perfectly willing to abide in Virginia by any decision handed down by the Virginia Court?

A. Yes, sir.

Q. And if the Virginia Court said you could not suggest an attorney to your member, would you stop?

A. Yes, sir, we would stop doing business in the State of Virginia.

Q. I understand, however, that would not mean that you wouldn't have legal counsel in Virginia?

A. We would, I presume—as a labor organization, we would have the right to have Legal Counsel in any State, but the question would be whether or not that Legal Counsel could handle personal injury matters. The question of a Legal Counsel is to handle the Brotherhood's activities in many other fields other than the personal injury field.

Q. Well, now, what other fields do you have in your organization?

A. Well, we have a large insurance organization. We have \$150,000,000 worth of outstanding insurance. Some member may take us into a Court and claim that we are not paying an insurance benefit as we should. Some railroad may take us into Court because of a violation of some [fol. 333] particular one of their rules. Or we may be in-

volved in a legal dispute with some city over some local enforcement rule. We have all kinds of disputes that have no relation whatsoever to the Legal Aid Department in which we must have an attorney in every State to handle our affairs.

Mr. Stallard: That's all.

Mr. Bowles, Jr.: I have just one question.

Recross examination of William P. Kennedy.

By Mr. Bowles, Jr.:

Q. I take it from what you have said, Mr. Kennedy, that you have no objection, then, to the entry by the Chancery Court of the City of Richmond in this proceeding of a decree outlining what in the opinion of that Court you do have a right to do in regard to personal injury cases and death cases?

A. That is correct.

Mr. Bowles, Jr.: That's all.

● (Signature waived.)

[fol. 334] Notary's certificate (omitted in printing).

[fol. 335]

NOTICE TO TAKE DEPOSITIONS (omitted in printing)

To Brotherhood of Railroad Trainmen:

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THE SILVER STATE POST
Deer Lodge, Montana, Friday, March 15, 1957
Page 1

Investigator For B. of R.T. Fined \$500 For Contempt

**Man Judged Guilty of
Practicing Law
Without a License**

Before Judge William Taylor presiding over the third district court session held Monday in Powell county courthouse, Pearly Wall, employed as a laborer in the Milwaukee Railroad shops, filed a petition to have the court declare Mark Verbon in contempt of court for practicing law without a license in violation of a Montana State statute.

Mr. Wall testified that he had received a back injury at the Milwaukee shops which incapacitated him for further work. Mr. Wall retained the law firm of Keeley, McElwain and Ryan.

Mr. Verbon, whom Mr. Wall stated that he had never seen before, came to Mr. Wall's house on March 2, according to the petitioner's testimony, and introduced himself as an "investigator for the legal aid department of the Brotherhood of Railroad Trainmen" of which Mr. Wall is not a member. It is alleged that he attempted to persuade Mr. Wall to allow him to handle his case and to obtain a release from the law firm of Keeley, McElwain and Ryan.

He advised Mr. Wall as to the possible settlements he might receive if he did so. Subsequently

At that recorded meeting Saturday morning Mr. Verbon asked Mr. Wall questions concerning his injury. It is reported that he attempted to persuade Mr. Wall to employ as lawyers on his behalf a Minneapolis law firm that is legal counsel for the Brotherhood of Railroad Trainmen. The conversation on the tape recording indicated that Mr. Verbon had had dealings with persons in other cities in Montana and in Washington. Robert Ryan of Keeley, McElwain and Ryan, appearing on behalf of the court, offered the tape to the court as exhibit A and had it played back in the court room.

Under sheriff John McGillis took the stand and testified that he went to Mr. Wall's home on the morning of March 9, took Mr. Verbon into custody and delivered him to the Powell county jail. Contracts printed with the name of Eugene A. Rerat were found on his person.

In answers to further questions while on the witness stand Mr. McGillis stated that on his return to his office after locking Mr. Verbon in his cell, he found in his office waste basket documents and notes which had been torn into pieces. Noel H. Boyer, special deputy for Sheriff Ed Darrow, testified that Verbon had attempted to destroy the papers in his possession by tearing them up and putting them into the waste basket in the sheriff's office. Mr. Boyer produced the papers which he had patched together with scotch tape. They were offered as exhibits 3, 4, 5 and 6. Exhibit 2 was a writing tablet which Mr. Wall had testified that he had loaned Mr. Verbon at their March 9th meeting. As shown in court, a portion of

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He advised Mr. Wall as to the possible settlements he might receive if he did so. Subsequently Mr. Wall reported to his lawyers Mr. Verbon's request after which an agreement was reached where, by a tape recorder was placed in Mr. Wall's home for the purpose of recording the conversation resulting from Mr. Wall's next meeting with Mr. Verbon scheduled for March 9.


At that recorded meeting Saturday morning Mr. Verbon asked Mr. Wall questions concerning his injury. It is reported that he attempted to persuade Mr. Wall to employ as lawyers on his behalf a Minneapolis law firm that is legal counsel for the Brotherhood of Railroad Trainmen. The conversation on the tape recording indicated that Mr. Verbon had had dealings with persons in other cities in Montana and in Washington. Robert Ryan of Keeley, McElwain and Ryan, appearing on behalf of the court, offered the tape to the court as exhibit A and had it played back in the court room.

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The defendant was judged guilty of contempt of court, fined \$500 and sentenced to five days in jail. The sentence was suspended upon immediate payment of the fine.

COMPLAINANT'S EXHIBIT K-1

(See opposite) 

THE SILVER STATE POST, DEER LODGE, MONTANA

FRIDAY, MARCH 15, 1957

PAGE EIGHT

Don't Be Misled By Ambulance Chasers!

On Monday, March 11, 1957, Marc Verbon, an investigator for the Brotherhood of Railroad Trainmen, was convicted of contempt of court for unlawfully practicing law without a license. This man was illegally soliciting business for certain lawyers of Minneapolis, Minnesota.


If you or any member of your family have been contacted by this man, or by any other person, attempting to obtain legal counsel for you or handle a case for you, we urge, for your own protection, that you consult an attorney admitted to practice in Montana.


POWELL COUNTY BAR ASSOCIATION

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[fol. 338]

COMPLAINANT'S EXHIBIT K-3

(See opposite) 





Brotherhood of Railroad Trainmen

PRINTED IN U.S.A.

Lodge No. _____

Dear Sir and Brother:

Re: On the Job Injuries or Deaths

Some time ago I was appointed by President Kennedy to be the regional investigator for you and the other members of your B. of R. T. Lodge and my principal interest is in seeing to it that you and our other friends in your area are properly protected when they are injured in railroad service.

The B. of R. T. constitution provides that a lodge officer is to inform the Legal Aid Department when one of our brothers are injured and then I in turn am notified by the Grand Lodge of the happening of the accident so that I can contact our injured members and see to it that your rights under the Federal Employers' Liability Act are protected. In recent months the reports are sometimes delayed or absent. It has been my experience that the first 24 to 48 hours following a railroad personal injury is the most important time to develop facts. The mere fact that an employee is on the job when injured does not in itself make out a claim against the railroad employer and the negligence of the company in most cases has to be established. I am told by the lawyers for the brotherhood that the company claim agents regard the first day following the accident to be their most important day to establish that the liability is in favor of the company. You can therefore see why prompt notice to me of an accident is most important.

The assistance that I provide for our injured brothers is given free to the individual member and it is obvious to say that an injured member has everything to gain and nothing to lose by contacting me.

My work is especially necessary in cases of serious injury, but all too often because of the seriousness from a medical standpoint the employee is not able to make the necessary formal report to the brotherhood, and therefore, I strongly urge you to inform members of your immediate family to telephone me collect if you or any of our other friends are involved in accidents or are killed, and I also suggest that you keep this letter as a part of your personal file so that you will have my telephone number. I am located at 909 South Fifth Street, Clinton, Iowa and my telephone number is Chapel 2-4650. Accidents sometimes occur through no fault of your own.

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Faternally yours,

E. A. Stouvenel
E. A. Stouvenel
BRT Investigator

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[fol. 339]


COMPLAINANT'S EXHIBIT K-5

(See opposite) 

TRAINMAN NEWS
April 10, 1961

BRT Veterans Feted At Lodge 72 Party

COLUMBUS, Ohio—High tribute was paid to veteran BRTers at the recent 12th annual oldtimers party held here by Lodge 72.

Over 250 attended the successful event at which a total of 720 years of membership emblems were awarded. F. Grubbs and J. J. Monahan were awarded 45-year pins.

F. C. "Monty" Montgomery, field service department manager and alternate vice-president, represented President W. P. Kennedy. He lauded the veteran BRTers for their loyalty to the Brotherhood.

Assistant General Secretary and Treasurer W. L. Hill discussed the popular new BRT insurance offered to the membership.

Keith E. Roberts, attorney in the legal counsel firm of Henslee and Henslee, delivered a brief talk on legal aid. He was accompanied by Bob Moss, BRT investigator.

Recent changes and laws governing railroad retirement was

discussed by W. J. Fischer, manager of the local Railroad Retirement Board.

Brief talks were also delivered by General Chairmen L. E. Singer of Chesapeake & Ohio Lines North and W. E. Atkinson of New York Central—Ohio Central Division.

Toastmaster was J. P. Morgan, 72 secretary-treasurer.

Local Chairmen J. P. Engler and D. E. Fitch were party chairman and vice-chairman, respectively.

Other guests at the party included Joe Ballinger and Bill Vaughn of Grand Lodge Premium Audit Department, Paul Brown, 518 secretary-treasurer; M. M. MacDonald, 141 president, and R. B. Hartman, 176 president.

[fol. 340]

COMPLAINANT'S EXHIBIT K-6

THIS AGREEMENT, Made this 10th day of June, 1958, by and between The West Virginia State Bar, the official integrated Bar Association of the State of West Virginia, through its Committee on Unlawful Practice, party of the first part, and Bernard M. Savage, of Baltimore, Maryland, party of the second part.

WHEREAS, the Committee on Unlawful Practice of The West Virginia State Bar has conducted an investigation and has secured evidence which leads it to believe that second party, during the years 1952 to 1956, inclusive, as "Regional Counsel" of the Legal Aid Plan of the Brotherhood of Railroad Trainmen, did engage in unlawful practices within the State of West Virginia in that second party, through certain agents and employees of the Brotherhood of Railroad Trainmen, did solicit representation of persons injured within the State of West Virginia, and

WHEREAS, second party did voluntarily appear at a meeting of the Committee on Unlawful Practice held in Charleston, West Virginia, on the 13th day of July, 1957, and freely discussed his representation of clients who were injured within the State of West Virginia and the operation of the Legal Aid Plan of the Brotherhood of Railroad Trainmen, including his affiliation with and participation in such activity, and did signify to said Committee that he desired to be freed and acquitted of any charges that might be made against him by reason of his prior activities, and did represent to and assure said Committee that he would not in the future, through agent or otherwise, engage in any form of solicitation within the State of West Virginia, and did further represent to the Committee that one Norris Tingle, his employee and "Regional Investigator" of the Legal Aid Plan of the Brotherhood of Railroad Trainmen, would not in the future engage in any form of solicitation on his behalf or on behalf of any other [fol. 341] person or Attorney within the State of West Virginia, and that second party would be responsible for all acts of his agent, the said Norris Tingle, and

WHEREAS, second party expressed his desire to enter into an Agreement with The West Virginia State Bar, through its Committee on Unlawful Practice, assuring The West Virginia State Bar of his good faith in making such representations rather than be faced with legal proceedings in the Courts of the State of West Virginia,

NOW WITNESSETH: This Agreement between the parties, as follows:

(1) The West Virginia State Bar is an integrated association of all practicing Attorneys within the State of West Virginia, properly and legally created by statute and by rule of the Supreme Court of Appeals of West Virginia, and is the official organization of lawyers within the State of West Virginia. The Committee on Unlawful Practice, pursuant to Article VII of the By-Laws of The West Virginia State Bar, is the official committee having jurisdiction over all matters and questions constituting unlawful practice and is empowered to enter into Agreements with persons to desist from unlawful practice, including this Agreement.

(2) The beneficiaries of this Agreement shall be The West Virginia State Bar and its properly constituted lawful representatives and each and every State and Federal Court having jurisdiction in the State of West Virginia or in any part thereof.

(3) Second party agrees that in the future he will desist and refrain from the following:

(a) From in any way or in any manner, either personally or by agent, servant or employee, soliciting personal injury or death claims or cases of any railroad employees or the personal representatives of fatally injured railroad employees or personal injury or death claims of any other persons, either for himself or on behalf of any other person or Attorney;

[fol. 342] (b) From in any way or in any manner, either personally or by any agent, servant or employee, holding or representing himself to anyone as being qualified or authorized to practice law within the State of West Virginia, or to advise anyone as to his legal rights and remedies within the State of West Virginia;

(c) From in any way or in any manner, either personally or by any agent, servant or employee, practicing law or otherwise advising anyone as to his legal rights and remedies within the State of West Virginia;

(d) From in any way or in any manner, either personally or by any agent, servant or employee, soliciting and procuring Powers of Attorney or any Agreement, written or oral, purporting to authorize him, the said Bernard M. Savage, or any other Attorney or person, to represent clients in personal injury cases arising in the State of West Virginia, or purporting to authorize him, the said Bernard M. Savage, or any other Attorney or person, to perform or render any legal service whatsoever within the State of West Virginia;

(e) From in any way or in any manner, either personally or by agent, servant, employee, partner or otherwise, representing any person in any legal matter, Court action or proceeding whatsoever, or otherwise practicing law within the State of West Virginia, except in a completely ethical and legal manner through associate counsel licensed to practice law in West Virginia according to the statutes of the State of West Virginia and the orders and rules of the various Courts therein; and

(f) From participating in or confederating in or conspiring in any of said illegal or unethical practices or activities, alone or with any other person.

[fol. 343] (4) Second party agrees that in the future his employee, Norris Tingle, will not engage on his behalf in any of the activities set out in Paragraph (3) hereof, and that he will be fully responsible for any future activity of said Norris Tingle so long as said Norris Tingle is his agent and employee.

(5) Second party further agrees that all of his activities as a lawyer, whether or not he be acting as "Regional Counsel" of the Brotherhood of Railroad Trainmen, shall be ethical and legal beyond any question, and that he will not engage in any activities as "Regional Counsel" of the

Brotherhood of Railroad Trainmen which are not ethical and legal.

(6) Second party further agrees that if at any time in the future he should violate this Agreement, it shall not be necessary for the beneficiaries of this Agreement, described in Paragraph (2) hereof, to prove that the previous conduct of second party was such as to warrant a finding that such previous conduct justified an injunction or other disciplinary order, and upon proof of such future violation an injunction or other disciplinary order may be entered (without further proof of previous conduct other than this Agreement) with the same force and legal effect as a decree pro confesso, consent decree or admission in open Court. It is not the intention or purpose of this Paragraph to define, limit or enlarge the jurisdiction of any Court but simply to eliminate the need for proof of prior conduct to warrant any future injunction or disciplinary order in the event this Agreement should be violated by second party.

(7) Second party further agrees that personal jurisdiction over him shall be obtained in the State of West Virginia upon thirty (30) days' written notice, forwarded to him by registered mail, return receipt requested, addressed to second party, Mathieson Building, Baltimore, Maryland. A copy of the pleading instituting the proceeding shall be forwarded with such notice.

[fol. 344] WITNESS the following signatures and seal:

THE WEST VIRGINIA STATE BAR, ACTING
THROUGH ITS COMMITTEE ON UNLAWFUL
PRACTICE,

By /s/ SAMUEL D. LITTLEPAGE
Its Chairman

ATTEST:

/s/ OSHEL C. PARSONS
Secretary

/s/ BERNARD M. SAVAGE (SEAL)
Bernard M. Savage

WITNESSES:

/s/ RITA J. TRAUB
/s/ BROWNIE F. LOVELACE

[fol. 345]

IN THE CHANCERY COURT OF THE CITY OF RICHMOND, VIRGINIA

COMMONWEALTH OF VIRGINIA, ex rel., Virginia State Bar,
Complainant,

v.

BROTHERHOOD OF RAILROAD TRAINMEN et al., Defendants.

Deposition of Dewey C. McLaughlin—June 1, 1961

Deposition of DEWEY C. McLAUGHLIN, called as a witness on behalf of the complainant, before William E. Ferris, a Notary Public within and for the State of Ohio, at the offices of Messrs. Arter, Hadden, Wykoff & Van Duzer, 1144 Union Commerce Building, Cleveland, Ohio, at 1:45 p.m. Thursday, June 1, 1961, pursuant to notice, to be read in evidence upon the trial of the above-entitled action.

APPEARANCES:

Mr. Aubrey R. Bowles, Jr., and Mr. Aubrey R. Bowles, III, for the Complainant;

Mr. Beecher E. Stallard, for Defendant Brotherhood of Railroad Trainmen.

[File endorsement omitted]

[fol. 346]

STIPULATION

It was stipulated by and between counsel for complainant and Defendant Brotherhood of Railroad Trainmen that all requirements of statutes with regard to the reading and signing of this deposition by the witness are waived.

DEWEY C. McLAUGHLIN, of lawful age, called as a witness on behalf of the complainant, being by me first duly sworn, as hereinafter certified, deposed and said as follows:

Direct examination of Dewey C. McLaughlin.

By Mr. Bowles, Jr.:

Q. State your full name, age, and occupation.

A. Dewey C. McLaughlin, R. D. 1, Homeworth. Right now I am, oh, farming a little and retired. I have got a couple of acres there at home I fool around on.

Q. How old are you?

A. I will be 62 in November.

Q. Did you ever work for the Pennsylvania Railroad Company?

A. I did.

Q. Did you have an accident on that railroad?

A. I did.

Q. When?

[fol. 347] A. February the 19th, 1960.

Q. Whereabouts?

A. At Canton, Ohio.

Q. Were you a member of the Brotherhood of Railroad Trainmen?

A. Yes, sir.

Q. When you were injured, what happened to you? Was that your left hand that was injured?

A. My left hand. I was riding the hump and I went solid before I thought I was hitting and it threw me and I grabbed over the end gate of the gondola and the steel shifted and pinned me against the gondola.

Q. When you were injured, where were you taken?

A. Mercy Hospital.

Q. In Canton?

A. Yes, sir.

Q. And you were a freight brakeman then?

A. I was promoted to conductor, but I happened to be performing brakeman's duty at the time I was injured.

Q. Who was the conductor on the operation that was happening at the time you were injured?

A. A fellow by the name of Emmett Adley.

Q. E-m-m-e-t-t A-d-l-e-y, I believe?

A. That's right.

Q. Now, how long did you stay in the hospital?

[fol. 348] A. Well, I was in the hospital 18 days when I first got injured.

Q. And then did you go home?

A. The doctor let me go home. I think it was three weeks and a day or something like that. Then, of course, I had to go see the doctor practically every day to have my hand dressed.

Q. After you stayed there three weeks, did you go back to the hospital?

A. I did.

Q. And how long all together did you stay in the hospital?

A. Well, it was 38 days, I believe, as I recall.

Q. While you were at home during that interim did anybody come to see you?

A. Yes, sir.

Q. Who?

A. Emmett Adley and a fellow by the name of Taylor.

Q. Don Taylor?

A. Well, I think—I understand that was his name.

Mr. Stallard: Counsel objects to the lawyer telling him the name if he doesn't know himself.

A. Well, they called him Don Taylor when he came right in my house. I learned afterwards his name was Don Taylor, you see.

[fol. 349] Q. Where did he say he was from?

A. Well, he said he represented—

Mr. Stallard: Counsel for the defendant objects to this as all being hearsay.

Q. You talked to the man, did you not, Mr. McLaughlin?

A. I talked to him. He was at my house, yes.

Q. Where did he say he was from?

A. He said he represented the Legal Aid of the B. of R. T. or something like that or attorneys, and so forth.

Q. What did he ask you to do?

A. Well, he wanted me to sign up for him to handle my case against the company.

Q. Did you agree?

A. No, sir.

Q. Why didn't you agree?

A. Well, right at the time I didn't know whether I was going to need counsel or not and I figured if I did I would pick my own counsel. That's the way I felt about it.

Q. Did Mr. Taylor go away?

A. Yes, he went away.

Q. Did he ever get in touch with you again?

A. He called me twice long distance. I don't know where he called from.

Q. What did he say then?

A. Wanting to know about what I did about my case, [fol. 350] whether I had got counsel to handle it, and I told him I hadn't.

Q. Did he say anything further?

A. No, he didn't say anything too much further, only that he would get in touch with me later.

Q. Did you employ counsel?

A. No, I didn't.

Q. Did you settle your case with the railroad?

A. I did.

Q. Was it satisfactory?

A. Yes, sir.

Mr. Bowles, Jr.: That's all.

Cross examination of Dewey C. McLaughlin.

By Mr. Stallard:

Q. How did you get in touch with the attorney here for the Bar of Virginia?

A. Well, just through a fellow by the name of Mr. White came to my house to see me.

Q. Who is Mr. White?

A. Well, I understand he represents the American Association of Railroads.

Q. In other words, the American Association of Railroads through Mr. White contacted you and got you to come in and testify?

A. No, he didn't get me to come and testify. There was [fol. 351] nothing compulsory about me coming to testify. I came on my own will. He wanted to know if I would come to Cleveland with him and I told him I would.

Q. Well, did he pay your fare to come down here?

A. He never paid me. He bought me a 10-cent cup of coffee in the morning.

Q. How far do you live from Cleveland?

A. Oh, about—it must be about around 65 miles, 70 miles. I don't know just exactly what the mileage is.

Q. How did you get down here?

A. I came with him in his automobile.

Q. Came with Mr. White, who is a representative of the American Association of Railroads? You really don't know what this case is all about, do you?

A. Well, no, I don't. I don't know too much about what the case is about, but I do know this much: they did cut—now, this is off the record. Keep it off the record.

Q. No, you can't do that.

A. Well, go ahead and put it in, I don't give a damn. I had never drawn my '59 vacation pay and the assistant griever, Emmett Adley, said that there was no need to even try to get it. I signed a resignation and walked downstairs and put in for my vacation pay and he said there was no need to even talk to the superintendent about it, that I wouldn't get no vacation pay on account of resigning.

[fol. 352] Q. Well, now—

A. That's one reason that I volunteered to help—to come up here with Mr. White.

Q. Because Mr. Emmett Adley said you wouldn't get your vacation pay?

A. That is right, and I haven't received it yet.

Q. Mr. Emmett Adley is a conductor, is he not?

A. He was assistant griever in the B. of R. T. Lodge at Canton at 951, I believe is the number of that Lodge.

Q. He is what?

A. He was assistant griever.

Q. Assistant grievance?

Mr. Bowles, Jr.: Griever. G-r-i-e-v-e-r.

A. Local Grievance Committee.

Q. Of what lodge?

A. I believe the number of the lodge is 951.

Q. 951? Is that the Brotherhood of Railroad Trainmen?

A. That's the Brotherhood of Railroad Trainmen.

Q. This is Lodge 951 where?

A. Canton, Ohio.

Q. Canton, Ohio? And you are a member?

A. I am a member.

Q. And you got angry with Mr. Emmett Adley?

A. I didn't get angry, but he just told me that he couldn't get my vacation pay because I resigned, signed a resignation [fol. 353] tion. He never even talked to the superintendent or anybody about it.

Q. Now, who is Don Taylor?

A. Well, I don't know who Don Taylor is, outside of what he told me. He said he represented the Legal Aid of the B. of R. T.

Q. Well, do you think Don Taylor was a lawyer?

A. I don't know. I couldn't say that.

Q. You had never seen him before?

A. I never seen the man before.

Q. When did this take place?

A. Well, it was some time between there that I was in the hospital 18 days and those three weeks that I was out. It must have been in February, because—I mean in March, because I got hurt the 19th of February and I was there 18 days and then I come home for three weeks.

Q. Do you know who is president of the BRT?

A. Well, Kennedy is President of the B. of R. T.

Q. Is that Mr. Park Kennedy, as we know him?

A. I don't know his name. I wouldn't know the man. For all I know, you may be him.

Q. Have you ever reported to Mr. Kennedy that Mr. Don Taylor represented himself as being a representative of the BRT?

A. No, I never reported nothing to him, because I figured [fol. 354] they knew what they were doing. My representative brought the fellow in to see me. The fellow that represents me brings him over to see me, in the organization. I wouldn't think he would pick up some outsider.

Q. Do you know where he is from?

A. No, I couldn't tell you where he is from. I couldn't say. I don't even know where he called me from long distance two different times.

Q. When you say handling your case, isn't the practice

in your small cases for your own Lodge to go with you when you go down to try to settle a case?

A. Well, in fact, I don't think so, because here if I was in some trouble with the company, they are supposed to represent me there.

Q. Well, nobody went with you down to the company's office? Didn't go down with you at all?

A. No. I went by myself.

Q. So you went by yourself? Do you know who is Regional or Legal Counsel for the State of Ohio?

A. What do you mean by that?

Q. For the Brotherhood of Railroad Trainmen?

A. No, I don't know who is Legal Counsel for them.

Q. So a man from your Lodge by the name of Emmett Adley—

A. That is right.

Q. —came to see you? Were you glad to see him?

[fol. 355] A. Naturally; you work with him every day.

Q. You work with him every day?

A. Not every day. Every other day or maybe so often like that.

Q. You didn't think there was anything unusual about that, did you?

A. No, only he just brought this fellow in and introduced him to me as Mr. Taylor and he represented the Legal Aid of the B. of R. T., and so forth. I don't know just how they did word it. It's been over a year.

Q. So you don't really know who is the Legal Counsel for the BRT here in Ohio, do you?

A. To name him, no, I couldn't name him.

Q. Your friend, Mr. Emmett Adley, who is a member of your Lodge, never told you where he was from?

A. He said something about representing the B. of R. T. in Cleveland.

Q. He said something about representing the B. of R. T. in Cleveland? But you don't know whether he was a lawyer, do you?

A. No, I don't know whether he was a lawyer or what he was.

Q. You just don't know? So do you attribute anything unusual that a member of your own Lodge, a man you work

with every day, brought somebody to see you about your accident?

A. Well, I figured I had heard of the Legal Counsel that [fol. 356] the BRT had and I figured he brought one from the BRT. No doubt he said he was representing the Legal Counsel of the B. of R. Ters.

Q. But you don't know that to be a fact, do you?

A. Well, what would you think? A man comes in and tells me he is representing somebody. I wouldn't have no cause to say, "Why, you don't represent the BRT," would I?

Q. Now, if Mr. Adley had brought in some lawyer from Canton and said, "I recommend this lawyer to you," would you have employed him?

A. No, I don't think I would have, until I seen what—

Q. Would you have reacted the same way you did in this case?

A. I probably would have.

Q. That you would have said that you would handle your own case?

A. I didn't tell him that I would handle it. I told him I wanted to see what the Company had to offer me first and then there was plenty of time for me to get an attorney.

Q. Did you know that your Local had to make a report to the Grand Lodge of your injury?

A. I don't know whether they had to make a report or not.

Q. Do you know whether a report was made of your accident?

A. I don't know whether they even made a report to the Grand Lodge.

[fol. 357] Q. Now, could you say that this long distance call was from the man that came with Mr. Adley and talked to you, known, as you believe, as Don Taylor?

A. That's what he told me his name was when he was talking to me over the telephone.

Q. But you don't know that to be true, do you?

A. Well, would you assume the man would call me up and tell me he was Don Taylor and he was not?

Q. I asked you, do you know whether he was Don Taylor?

A. How the hell could I swear it was Don Taylor and me at Homeworth and him down in Columbus or up here in Cleveland? What the heck is wrong with you, man?

Q. You really don't know whether the Brotherhood of Railroad Trainmen sent somebody to help you or not?

A. Well, I wouldn't think Emmett Adley would come in and introduce him as a representative of the Brotherhood of Railroad Trainmen and he was not and him a member and a griever of the committee.

Q. He didn't take any statement from you, how your accident happened or anything like that, just came in to see you?

A. He came in to see me to handle—he was interested in handling my case if I got an attorney.

Q. About what time of day was this?

A. I don't know, I think it was around 2:00 or 2:30 in the afternoon or something like that.

[fol. 358] **Q.** And no report was ever made to your Lodge or to the Grand Lodge that this man, Don Taylor, came with Emmett Adley? You never made any report of that?

A. No, why should I? I didn't owe the Lodge nothing.

Q. You have never told anybody that other than Mr. White, who represents the American Association of Railroads?

A. Well, I think I told—I wouldn't be sure about it, but I think I told the claim agents before White came up there to see me.

Q. You have never told anybody at your Local Lodge or at the Grand Lodge that somebody—

A. I might have talked it over with some of the members. I was over there at the Lodge a couple of times after this happened, even after my hand healed up.

Q. You don't know whether you did, you might have? You just surmise that?

A. We could have talked it over.

Q. You wouldn't testify either way? You just don't know, do you, whether you have ever mentioned it?

A. I don't recall whether we talked it over about Taylor coming to see me or not. I don't recollect. It's been over a year.

Q. You have certainly never made any report of this to the Grand Lodge, an official report of Don Taylor coming to see you?

[fol. 359] A. No, why should I?

Mr. Stallard: That's all.

Redirect examination of Dewey C. McLaughlin.

By Mr. Bowles, Jr.:

Q. Two questions, sir. What lawyer did Don Taylor want you to employ?

Mr. Stallard: Counsel will object to that.

Mr. Bowles, Jr.: Let him answer the question.

A. It was some firm in Chicago, I believe, as well as I remember it. I just don't recall their names to call them out.

Mr. Stallard: Counsel for the defendant objects to this as a leading question, and the witness has stated he did not know what firm of lawyers, he did not know whether Don Taylor was a lawyer, and it was all hearsay, in the absence of the defendant, and therefore is not binding in any way on the defendant and should not be asked.

Q. I hand you here, Mr. McLaughlin, a statement that you made and signed on December 1, 1960, for Mr. White and ask you to look at that and see whether that refreshes [fol. 360] your memory as to what lawyer he asked you to employ?

A. I am pretty bad about remembering names. I might have had it there at the time. Maybe I wrote it down perhaps.

Mr. Stallard: Surely counsel for the complainant is not trying to impeach his own witness?

Q. No, I am asking you to refresh your memory by looking at your statement and see what lawyer it was that Mr. Taylor wanted you to employ.

Mr. Stallard: May I see that instrument he has got?

Mr. Bowles, Jr.: Yes, as soon as he gets through with it.

Q. You see the lawyer's name in there?

A. I can't hardly see with these glasses. They are cock-eyed on me.

Mr. Stallard: Counsel for the defendant objects to counsel for the plaintiff pointing anything out to the witness.

Mr. Bowles, Jr.: I haven't pointed anything out. I am just looking over his shoulder.

Mr. Stallard: He is getting ready to do so with his pencil.

Mr. Bowles, Jr.: I have got my pencil poised in the air [fol. 361] and I haven't pointed out a thing. I am standing behind the witness and he doesn't even know what I am doing.

Q. Does the statement refresh your memory as to what attorney that he wanted you to employ?

A. It does, but I have got it marked down, I think, down at home. If I had known that, I would have brought it along with me.

Q. What is the name of the attorney that he asked you to employ?

Mr. Stallard: The witness is being led by his own counsel and he has said he didn't know. Now, he is trying to remember, and I wrote down what he said. "I do not know. Some firm in Chicago."

Mr. Bowles, Jr.: He said, "I do not remember."

Q. Now, do you remember, Mr. McLaughlin?

Mr. Stallard: I want to examine this instrument first.

Mr. Bowles, Jr.: Wait a minute. You had quit and I have got him on redirect.

Mr. Stallard: I want to see this before you go any further.

Mr. Bowles, Jr.: Just one minute. He is looking at this [fol. 362] to refresh his memory and I insist on finishing what I am doing.

Mr. Stallard: Counsel is supposed to see it before he ever refreshes his memory to see if it's proper.

Mr. Bowles, Jr.: That is not necessarily true.

Mr. Stallard: It may not be proper.

Mr. Bowles, Jr.: Let's stop arguing and let's get along.

Mr. Stallard: I want the record to show that.

Mr. Bowles, Jr.: Let it show.

A. I can't read his handwriting. Hender and Monk—
or Monk and Murray.

Q. Henslee, Monek & Murray?

A. I can't hardly—

Q. Now, hand the paper to Mr. Stallard, please.

A. I lost one of the nose pieces on my glasses coming up
here this morning.

Q. You are having trouble seeing, is that what it is?

A. Yes.

Q. I want to ask you one other question, please. Sir,
what was the amount of your settlement?

A. \$40,000.

[fol. 363] Mr. Bowles, Jr.: That's all.

We will be glad to file that as an exhibit if you want it,
Mr. Stallard.

Recross examination of Dewey C. McLaughlin.

By Mr. Stallard:

Q. Mr. McLaughlin, you could not read this after it was
handed to you, but I observe that you perhaps signed it?

A. I signed it, but the time that I signed that and read
it my glasses wasn't broke. I broke my glasses this morning
coming up here, I told you. The nose piece came off and
it gouged me and got them out of focus. I can hardly see
with them.

Q. The same glasses you had on in December?

Mr. Bowles, Jr.: But not broken.

A. They wasn't broken, though.

Q. You didn't make out this statement at all, did you?

A. I didn't write it, no, myself.

Q. Who wrote this statement?

A. Mr. White copied it down as I told him.

Q. Mr. White of the American Association of Railroads?

A. That is right.

Q. Now, he has the date on here, December 1, 1960. Is
that the proper date?

A. December 1, 1960?

[fol. 364] Q. Yes,

Mr. Bowles, Jr.: The date of the statement, Mr. McLaughlin.

The Witness: Perhaps that was the date.

Q. Where is Mr. White from?

A. I understand he lives in Pittsburgh.

Q. You understand he lives in Pittsburgh? He wrote out a statement which you signed. Did he leave a copy of it with you?

A. No, I didn't ask him for a copy.

Q. You didn't ask him for a copy? Now, can you tell me right now the name of the firm of lawyers that were recommended to you?

A. It's that Henslee and Murray and I can't remember that. Just like I told you, damn, I can't hardly remember the names.

Q. If you couldn't remember when this man you called Don Taylor was there—when was he there?

A. I don't disremember the date. I told you it was in March. On the date, I don't know what date it was.

Q. In March what year, now?

A. 1960.

Q. 1960? Well, now, you had some trouble remembering; but you knew on December 1, 1960, the name of the attorneys [fol. 365] recommended to you?

A. I told you I think I have it wrote down down there at the house some place in case I wanted to get in touch with them.

Q. You think you have? You are not positive of that, however?

A. Well, I imagine I could rake it up if I wanted to, if you want to get that God damned particular about it. Christ, I didn't come up here to be seesawed by a God damned B. of B. T. attorney. I will walk out. I come up here on my own free will.

Q. Do you want to leave?

A. I don't give a damn.

Q. You don't give a damn? Well—

A. That's just through attorneys like you is why the BRT attorneys didn't handle my case.

Q. Well, I am asking you—

A. Now, I will be frank with you.

Q. You are under oath here.

A. I don't care.

Q. And you are positive these are the attorneys?

A. That was the names that he told me that he was representing.

Q. That Don Taylor told you?

A. Yes.

[fol. 366] Q. And now you testified that he said he was from the Regional Counsel's office, did he?

A. That's what he said, yes, sir.

Q. Well, now, was he representing the Claims Department or the BRT?

A. He said he was representing the Claim Department of the Legal Aid or the BRT or something like that. Legal Aid I think he called it.

Q. Now, then, you come here and say that he was representing some attorneys.

Mr. Bowles, Jr.: I object to that, and he hasn't said that.

A. They are the Legal Aid.

Mr. Bowles, Jr.: Just a minute. I object. He said no such statement as that. He said that that was the attorney that this Legal Aid representative wanted him to employ. That's all he said. And you can't put words in his mouth to the contrary.

Q. You have not seen Taylor since?

A. No, I haven't seen him since. I told you I had two conversations with him over the telephone afterwards.

Q. And if Adley had handled your matter about your vacation, it would have been perfectly all right, wouldn't it, you would have hired these attorneys?

[fol. 367] A. No, I wouldn't have hired the attorneys, because my vacation came up after I made the settlement.

Q. Your vacation came up after you made the settlement?

A. Yes.

Q. You didn't think they handled it right?

A. He refused to handle it. They sent me a life membership card of the BRT organization. I took it out of the envelope and I threw it in the waste paper basket, because

they never done nothing for me all the time I worked on the railroad. Put that in if you want and take it down and show it to President Kennedy.

Q. How long did you work on the railroad?

A. I worked 15 years for the Pennsylvania and I worked practically nine years for the Wheeling & Lake Erie.

Q. There are two factions in the BRT, aren't there, some that want to get the incumbent office group out and some that want to keep it in; is that correct?

A. I don't know nothing about that, the office part of it.

Q. What faction do you belong to?

A. I belong to the BRT, that is, the Brotherhood of Railroad Trainmen.

Q. Are you in good standing in your Lodge?

A. I just got through telling you, they sent me a paid up card that I don't have to pay no more dues to belong to the organization.

[fol. 368] Q. Well, now, you could employ any attorney you wanted to, couldn't you? They don't force you to employ an attorney?

A. No, they don't force you.

Q. You know that you have the service if you want it?

A. But they were around before my hand—before I was even through the operation on my hand; wanted me to sign up for their attorneys to handle.

Q. You say "they"?

A. This Don Taylor. He said he represented the Legal Aid of the B. of R. Ters and told me about these attorneys.

Q. What city was he from?

A. Columbus.

Mr. Bowles, Jr.: You asked him that twice before.

Mr. Stallard: I am asking him again.

Q. You say he is from Columbus? How far is Columbus from your home?

A. I think it's about 76 miles on the railroad from Canton, I am not sure, and I live about 15 miles out of Canton.

Q. You had never seen him before?

A. No, I had never seen him.

Mr. Stallard: Counsel would object to the introduction of this statement. It was prepared by Mr. C. S. White of

Pittsburgh, Pennsylvania, whom the witness has identified [fol. 369] as an agent of the Association of American Railroads. This case is really a case not of the Commonwealth of Virginia ex rel.—

Mr. Bowles, Jr.: I object to that statement.

Mr. Stallard: —ex rel. State Bar but a case of the American Railroad Association against the Railroad Brotherhood whom I represent.

Mr. Bowles, Jr.: I object to that statement and state that unconditionally that that is not a fact; that this man is here and he was solicited to come here at my request on behalf of the Virginia State Bar; that I contacted the man that brought the fellow here through his superior officer, and I made all of the arrangements and the State Bar is bearing the expense.

Now, the statement is made available for introduction if Mr. Stallard wishes it to be introduced.

Mr. Stallard: I certainly would object to it being introduced as a self serving declaration, prepared by a hostile person or a hostile man to the client that I represent.

Mr. Bowles, Jr.: I ask that the stenographer mark this [fol. 370] exhibit for the sole purpose of showing to the Chancellor that the man's testimony before any reference made to the exhibit was exactly what is contained in the exhibit.

Mr. Stallard: I object to it as being filed with the papers, because it was not prepared by the witness. He did not have a copy left with him, as the law of Virginia would require.

Mr. Bowles, Jr.: This is not a personal injury case, and the law you refer to has no application to it.

The Witness: I could have had a copy of it if I would have wanted it. I didn't see any need of me keeping a copy of it. In fact, I never knew it was running into something like this, to be here seesawed by an attorney, or I wouldn't have even came up. And as far as any attorney, I wouldn't trust them from here to that door. I wouldn't give a damn for my father and he was an attorney. I'd say I think you are crooked, because they are in for what they can get.

Mr. Bowles, Jr.: Have you got any further questions? I have none.

[fol. 371] Mr. Stenographer, if you will just mark that for the purpose of showing it.

(Statement of Dewey Clarence McLaughlin marked, "Complainant McLaughlin Exhibit 1.")

Thank you, Mr. McLaughlin.

(Signature waived.)

[fol. 372] Notary's Certificate (omitted in printing).

[fol. 373] NOTICE TO TAKE DEPOSITIONS (omitted in printing).

To Brotherhood of Railroad Trainmen:

[fol. 374]

COMPLAINANT'S EXHIBIT McL-1

Statement of Dewey Clarence McLaughlin

Age 61

Occupation Yard Freight Brakeman

Residence R. D. 1, Homeworth, Ohio

Tel. 5-86-2934

Business Address Tel.

Relative to Accident to Dewey Clarence McLaughlin at
Canton, Ohio on February 19, 1960

My name is Dewey Clarence McLaughlin and I live at R. D. 1, Homeworth, Columbiana County, Ohio. I was employed by the Pennsylvania Railroad Company for 15 years. I am married and I have 5 minor children as my only dependents. I was employed by the Pennsylvania Railroad Company as a Freight Brakeman. I have not worked for the Railroad since the date of my accident, February 19, 1960.

On February 19, 1960, I injured my left hand while at work for the Pennsylvania Railroad Company. Following the accident I was taken to the Mercy Hospital in Canton, Ohio. I was confined to the hospital for 38 days. The

only people who came to see me in the hospital were my immediate family. I would like to state I was first confined to the hospital for 18 days and I was then sent home for 3 weeks. I then returned to the hospital for the remainder of the 38 days.

Approximately 24 days following my accident I was visited at my home by Emmett Adley who was the Conductor on my job and Don Taylor from Columbus, Ohio. Mr. Taylor said he represented the Legal Aid Department for the Brotherhood of Railroad Trainmen in Cleveland, Ohio. Mr. Taylor said he wanted me to sign a contract for him so my case could be handled by the Legal Aid Attorneys, Henslee, Monek and Murray. I told Mr. Taylor I was not interested in any lawyer and I wanted to wait and see what the Railroad Company had to offer. I would estimate Mr. Adley and Mr. Taylor were in my home 30 minutes. I never asked anyone to bring Mr. Taylor to my home. I had never seen or heard of Mr. Taylor before he came to my home. I was not seeking any legal advice and I never asked anyone to bring Mr. Taylor

/s/ DEWEY C. McLAUGHLIN

Signed at R. D. 1, Homeworth, Ohio
in the presence of

/s/ C. S. WHITE

Residence 10 Elmhurst Rd:
Pittsburgh, Pa.

- 2 -

December 1, 1960

[fol. 375] to my home. I did not give Mr. Taylor the chance to produce a contract. I told him I was not interested in the Legal Aid Attorneys for the Brotherhood of Railroad Trainmen. Mr. Taylor told me to get in touch with him at Columbus, Ohio, if I changed my mind.

Following his visit to my home Mr. Taylor called me on the telephone at my home two different times. He wanted to know if I had changed my mind about retaining the legal aid lawyers, Henslee, Monek and Murray of Chicago. I told Mr. Taylor both times I was not interested in any lawyer. Since the second phone call I have never

heard from Mr. Don Taylor. Mr. Taylor never told me what my case was worth.

I settled my case direct with the Pennsylvania Railroad Company on September 14, 1960 for \$40,000.00.

I have carefully read over this 2 page hand written statement and it is full, true and correct. No inducement of any kind has been made to me to get me to sign each page of this two page statement. I fully realize that this statement may be used by Railroad officials, Bar Associations or any other Committee in their efforts to stop unethical practices.

/s/ DEWEY C. McLAUGHLIN

Signed at R. D. 1, Homeworth, Ohio
in the presence of

/s/ C. S. WHITE

Residence 10 Elmhurst Rd.
Pittsburgh 20, Pa.

December 1, 1960

[fol. 376] . [File endorsement omitted]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

COMMONWEALTH OF VIRGINIA, et rel., Virginia State Bar,
Complainant,

v.

BROTHERHOOD OF RAILROAD TRAINMEN et al., Defendants.

Depositions of: Clifford D. Olson, and Mrs. Bette Olson—
June 15, 1961

APPEARANCES:

George Beal, of the firm of Bottum & Beal, Rapid City,
South Dakota, appeared for complainant;

Louis Crill, Minneapolis, Minnesota, appeared for defendants.

Philip B. Lush, Minneapolis, Minnesota, of counsel.

Depositions of Clifford D. Olson and Mrs. Bette Olson, taken before Harold Fliday, a notary public and an official court reporter in and for the state of South Dakota, pursuant to the Notice to Take Depositions, hereto annexed, at the law offices of Bottum & Beal in the city of Rapid City, South Dakota, beginning at 10 o'clock, A. M., on the 15th day of June, 1961, to be read in evidence on behalf of the complainant in the above entitled cause pending in the Chancery Court of the city of Richmond, state of Virginia.

[fol. 377] CLIFFORD D. OLSON called as a witness, and having been first duly sworn, testified as follows:

Direct examination.

By Mr. Beal:

Q. Would you state your name, please?

A. Clifford D. Olson.

Q. Where do you live, Mr. Olson?

A. 411 East Talent, Rapid City.

Q. And what has been your occupation up until recently?

A. Switchman on the Chicago & Northwestern Railroad.

Q. And were you involved in an injury or accident on the railroad?

A. Yes.

Q. And do you remember about when that took place?

A. July 17th.

Q. What was the nature of the accident?

A. The loss of a left limb.

Q. And you were hospitalized I presume as a result of this accident?

A. Yes.

Q. And at what hospital?

A. St. Johns.

Q. And were you contacted by any persons regarding this accident while you were hospitalized in St. Johns?

A. Yes.

[fol. 378] Q. Do you remember approximately when that was?

A. Well, as far as dates I can't. The approximate time would be I would say 3 days to 4 days after I had the accident.

Q. And who contacted you?

A. Gale Clinkenbeard and Jerry Ballieu.

Q. Now, Cliff, would you relate in your own words to the best of your recollection what, if anything, Mr. Clinkenbeard and Mr. Ballieu said to you at the time they contacted you at the hospital?

A. Well, they informed me that they were representatives, which I knew Ballieu was, of the railroad Brotherhood of Trainmen, and advised me of rights under the by-laws of the Brotherhood of Trainmen.

Q. And what else, if anything, was said by them?

A. Well, they informed me that I could use legal aid if I so wanted to do so.

Q. And was any mention made of the attorneys in the legal aid?

A. Well, they said I could use my own, but the ones that were mentioned were Mr. Lush and his firm.

Q. And what, if anything, was said regarding the capabilities or abilities the Mr. Lush firm?

A. Well, I was informed that they were a very capable firm in this type of a transaction if you might call it that.

Q. Was any statement made that they could get you more money?

A. Well, they said they possibly could.

Q. Now was that about the nature and extent of the [fol. 379] first conversation, or was there anything else said then?

A. Well, in the first conversation they just informed me that they were—there wasn't much said about anything outside of the fact that they were from the Railroad Brotherhood of Trainmen.

Q. At that first conference was anything said about entering into a retainer contract with this law firm?

A. At the first one I couldn't truthfully say.

Q. Now did you have a subsequent conference with Mr. Clinkenbeard?

A. Yes.

Q. And when and where did that take place?

A. That was also at the hospital. I imagine, I would say about a week after the first one.

Q. Now would you relate again to the best of your knowledge what was said by them to you at that second meeting?

A. Well, they informed me again of the rights and they thought that legal aid would do me some good and possibly could get more money for me than I could if I was to go ahead and settle it myself.

Q. Was anything at that conference said about entering into a retainer contract with the law firm?

A. I couldn't tell you when that happened. I believe it happened at home after I was out of the hospital.

Q. Then you got out of the hospital after you entered in about two weeks, is that right?

[fol. 380] A. Two weeks and three days I believe it was.

Q. Then you went home.

A. Un-huh.

Q. And then were you contacted at home again by Mr. Clinkenbeard?

A. Yes.

Q. And was anybody with Mr. Clinkenbeard?

A. Well, I believe he was there once by himself, and I believe he was there with Jerry Ballieu, and he was also there one time with Mr. McNurlan.

Q. And who was Mr. McNurlan?

A. He was an investigator for the Railroad Brotherhood of Trainmen. To the best of my knowledge he is.

Q. And then at this conference at your home was anything said about entering into a retainer contract with the legal aid law firm?

A. It was but I can't recall which time it was.

Q. Well, you do recall there was a mention of a retainer contract, is that correct?

A. That's right.

Q. And was one signed by you?

A. Yes.

Q. Do you have copy of that contract?

A. I have one at home.

Q. You have one at home. What happened to the original of that contract?

A. I believe the law firm of Lush has the original.

[fol. 381] Q. Well, who did you deliver it to after you signed it?

A. Mr. Clinkenbeard.

Q. And did you discuss this retainer contract with Mr. Clinkenbeard at or just before it was signed by you?

A. Yes, but not to any extent. I also had in that contract that I reserved the right to deal with the railroad if I felt that they were going to be justifiable.

Q. In other words, you reserved the right to do your own negotiating with the railroad?

A. Yes.

Q. And subsequently did you exercise that right and do your own negotiating with the railroad?

A. I did.

Q. So the actual retainer contract then was nullified and it was never carried out and you never in fact had this firm represent you, is that correct?

A. No.

Q. Did Mr. Clinkenbeard at these conferences advise and persuade you to enter into this retainer contract?

Mr. Crill: Just a minute. We want to object to that as leading and suggestive and calling for a conclusion of the witness and not a statement of what was said or done.

Q. I'll withdraw the question. I would like, Mr. Olson, if you would relate as close as you can remember just what Mr. Clinkenbeard said to you in regard to this retainer contract.

A. Well, he informed me that he thought this firm [fol. 382] could probably get me more money than I could by dealing through the railroad myself.

Q. Is that to the best of your knowledge the statement he made to you?

A. Yes.

Q. You stated you had your leg amputated, did you not?

A. Yes, a complete disarticulation.

Q. And at the time that you were in the hospital did you suffer any shock from this accident?

A. Well, that I really couldn't say. You'd probably have to ask my doctor. I thought I was doing pretty good but a lot of people thought I was a little goofy there for a while.

Q. Were they giving you any medicine or drugs while you were in the hospital?

A. About 24 hours a day.

Q. Did you suffer much loss of blood from the loss of this leg?

A. According to Dr. Williams it was 13 pints.

Q. Were you weak while you were in the hospital?

A. Oh, yes.

Q. Did you read this retainer of contract before you signed it?

A. I imagine I did. I might have glanced at it, but it was—

Q. Who prepared—excuse me.

A. It was prepared by Mr. Clinkenbeard; my wife typed it up.

Q. And when you say it was prepared by Mr. Clinkenbeard you mean he is the one—

A. (Interposing) He dictated it.

[fol. 333] Q. He dictated it to your wife.

A. Yes.

Q. Did you understand at that time what percentage the law firm was to get under this retainer agreement?

A. Well, I had an idea, but I didn't know exactly what it would be.

Q. Did you ask the law firm to return this retainer contract to you after you had signed it?

A. Yes.

Q. And how did you make this request?

A. By registered letter.

Q. Was the contract ever returned to you?

A. No.

Q. Were you ever contacted by any member of this law firm of Mr. Lush and Mr. Crill after you advised them that you did not want to hire or retain their services?

A. Well, I had a phone call and they wanted to know

why I changed my mind and I told them I was going to try and negotiate myself.

Q. Now by "they" who do you mean? Did the person identify himself over the phone?

A. They did but I don't remember who it was. It was one of the members of the firm I believe.

Q. Was it a long distance call or a local call?

A. Long distance call.

Q. So you have no reason to doubt it was some member of that firm.

[fol. 384] A. Yes, I'm sure it was.

Q. Did Mr. Clinkenbeard ever consult you after you made this request to the law firm to return to you your retainer contract?

A. I couldn't answer that truthfully. I wouldn't want to say.

Q. Did you ever know Mr. Clinkenbeard prior to the time of this accident?

A. No.

Q. Did you ever request that he come and see you?

A. No.

Q. Did you ever ask anybody else to send Mr. Clinkenbeard to see you?

A. No.

Q. Did you know any member of the law firm of which Mr. Crill and Mr. Lush are a member of that private law firm?

A. No.

Q. Did you ever request that they come and see you?

A. I don't believe so.

Q. Did you ever receive any letter from the Brotherhood of Railroad Trainmen regarding your accident?

A. Yes. This is it.

Mr. Beal: Would you mark this, please?

(The reporter marked Plf. Ex. A for identification.)

Q. I will hand you now what has been marked Plaintiff's Exhibit A and ask you if that is the letter which you have just referred to?

[fol. 385] A. Yes.

Q. Would you examine it, please? (witness looks over exhibit). Is this the letter then that you received from the Brotherhood of Railroad Trainmen?

A. Yes.

Q. And how was that received by you?

A. I believe it was sent to my home and my wife brought it to the hospital.

Q. Was it in an envelope?

A. Yes.

Q. Was it sealed or opened?

A. Sealed.

Q. Then can you state positively whether or not, this is the letter?

A. That is the letter.

Mr. Beal: At this time the plaintiff would make a request that Plaintiff's Exhibit A be withdrawn from evidence and a photostatic copy of said letter be marked and inserted in place thereof.

Mr. Lush: Let us read it but I believe we will have no objection.

OFFER IN EVIDENCE

Mr. Beal: It would appear that Exhibit A has not been offered into evidence and at this time plaintiff would like to offer into evidence Plaintiff's Exhibit A.

Mr. Crill: Well, we understand any objections will be reserved for ruling by the trial court, if there are any.

Mr. Beal: That is my understanding of the Virginia [fol. 386] procedure.

Mr. Crill: And we have no objection to the substituting of a copy and having it marked for the original Plaintiff's Exhibit A.

Q. Mr. Olsen, did you at any time request your wife to ask any of these people which we have mentioned here to come and see you?

A. No.

Q. Do you have any knowledge of whether or not your wife did in fact ask these people to come and see you?

A. I don't believe she did but I couldn't say for sure.

Q. I will ask you, Mr. Olsen, if you will waive the right of reading and signing this deposition?

A. Yes.

Mr. Beal: That is all the plaintiff has.

Cross examination.

By Mr. Crill:

Q. Mr. Olsen, you mentioned the fact that Mr. Ballieu and Mr. Clinkenbeard were out to see you at the hospital.

A. Yes.

Q. And we haven't identified who Mr. Ballieu is I believe. He is the local chairman, is he not, of the lodge of the Brotherhood of Railroad Trainmen to which you belong?

A. That is right.

Q. And he came out there to see you and Mr. Clinkenbeard also came out to see you.

[fol. 387] A. That's right.

Q. And at that time you said they advised you of your rights and I assume by that that they told you that you were entitled to the services of the legal aid of the Brotherhood of Railroad Trainmen and were entitled to have an investigation made if you so desired it by the investigators of the Brotherhood of Railroad Trainmen, is that correct?

A. True.

Q. And at a subsequent time, if not at the hospital, you were advised that there were attorneys who had been designated as regional or legal counsel who were available if you desired them?

A. Right.

Q. As I understand it you were never contacted by any member of the firm of Davis & Lush until after you had written this letter to them, is that correct?

A. Right.

Q. Now may I ask this: was it not true that you were being visited at the hospital by claim agents or claim men of the railroad company before Mr. Ballieu and before Mr. Clinkenbeard ever came out to see you?

A. Yes.

Q. And that you were seen by claim men of the railroad company subsequent to your seeing Mr. Ballieu and Mr. Clinkenbeard also relative to this case?

A. Yes.

[fol. 388] Q. And is it true that when Clinkenbeard and Ballieu saw you at the hospital the first time that you told Mr. Ballieu and Mr. Clinkenbeard that you had told the claim man that you wouldn't talk to anybody about your case until the claim man had come back and had a chance to discuss settlement with you?

A. Yes.

Q. And after you had told Mr. Clinkenbeard and Mr. Ballieu that they then left and didn't come back for approximately a week I believe you said?

A. Yes. I believe that's right.

Q. Now then I believe you said you then were seen later by Mr. Clinkenbeard and a letter was prepared that was sent to Mr. Lush, is that correct?

A. Correct.

Q. And that of course was with your consent, was it not?

A. Yes.

Q. And your wife you said typed that letter up.

A. That's true.

Q. And that was when you were home was it not, Mr. Olsen?

A. Yes.

Q. And you were not in shock or anything of that sort at that time?

A. Well, I wasn't in shock but I was still under drugs and sedatives.

Q. You understood when you wrote this letter that conditionally you were asking Mr. Lush to appear for you in [fol. 389] this case but reserving to yourself the right to negotiate for settlement with the claim man.

A. Very true.

Q. And the claim man was to come back, you were to talk to him and decide whether you wanted Mr. Lush to go ahead conclusively, or whether you wanted to settle up with the railroad.

A. Right.

Q. And isn't it also true that you subsequently wrote another letter to Mr. Lush wherein you advised him to disregard the last paragraph of your letter wherein you reserved the right to negotiate with the railroad?

A. Not to my knowledge I didn't. I may have.

Q. And as a matter of fact on August 18th, 1959, didn't you so write and sign a typewritten letter to Mr. Lush of Davis & Lush removing the reservation in the last paragraph of the original letter requesting employment, or don't you remember.

A. Well, I didn't write. I wrote one letter.

Q. That was August 5th or 6th?

A. Telling Mr. Lush to disregard.

Q. No, that was later. The first letter you wrote, the one with the reservation in, that was around August 5th or 6th.

A. That's the one Mr. Clinkenbeard typed, or dictated.

Q. Then you remember when McNurlan came back with Clinkenbeard that you've talked about here?

A. Yes.

Q. And that was about August 17th or 18th, was it not?
[fol. 390] A. I couldn't tell you about the dates.

Q. Does that seem about a month afterwards that they came back?

Mr. Lush: It would be 2 weeks.

Mr. Crill: The accident was on the 17th.

Mr. Lush: It was 2 weeks after the 5th or 6th when he first saw them.

Q. Yes, it was about 2 weeks after that but it was about a month after the injury. And do you remember that the claim man was supposed to come to your place by I think 5 o'clock in the afternoon and that Mr. Clinkenbeard was at the hotel and that you called in the afternoon and you said that he hadn't come and to hell with it, that you were going to let Mr. Lush go ahead and take care of it, and that then they went out to your house and a letter was typed up and you signed it saying that you were withdrawing the last paragraph of your original letter requesting employment and to proceed with the case. Do you remember it or not?

A. I couldn't tell you.

Q. And then later a month after that, a little less than a month after that, about September 12th, then you wrote to Mr. Lush and asked him to discontinue proceeding with your case. You remember that, don't you?

A. I remember writing, that I did that, but I couldn't tell you whether it was a month or two.

Q. And may I ask you this: between the time you wrote to Mr. Lush saying that you did not desire him to go ahead [fol. 391] with the employment had the representatives of the railroad been to see you?

A. Yes.

Q. And would you tell us who from the railroad company had seen you between the time that you had—well, let's take it from when you were in the hospital on down, what people from the railroad company have seen you?

A. Do you mean the officials?

Q. Claim men and things of that sort.

A. Lau Brod and Gordon Danielson as claim agents.

Q. All right, who else have seen you subsequent to your injury besides them?

A. Well, the superintendent came up to see me. I mean it was no business, it was just a personal friendship.

Q. And what's his name?

A. (long pause).

Mr. Lush: I think it starts with a W.

A. No, he wasn't there that time.

Q. Well, superintendent, was it?

A. Yes, I can't think of his name but I know him real well. Hennigan is his name.

Q. And anyone else from the railroad who has seen you since your injury?

A. That was the assistant superintendent. The superintendent from Chadron was out to see me.

Q. Do you remember his name?

[fol. 392] A. No, I don't. I don't recall his name.

Q. Did anyone from the railroad company before you wrote Mr. Lush discontinuing his services advise you that Mr. Lush had instituted a lawsuit against the railroad for you?

A. To my knowledge that was the way it was, but I have no knowledge of law practices, or how you go about them.

Q. Well, I realize that but what I'm getting at is somebody did tell you that though?

A. I wouldn't say that they had told me. I may have took it that way. I don't know, they told me there was some action being taken in the state of Illinois. That's the way I'll put it.

Q. And you were subsequently advised I believe by Mr. Lush's office that a notice of lien had been filed and that no action has been instituted, is that not right?

A. That's true.

Q. May I ask who talked with you and discussed with you the proposition of sending a notice to Mr. Lush that you were discontinuing his services?

A. No. No one.

Q. I say who.

A. No one.

Q. Was any discussion had with any of the claim men relative to the proposition of making a settlement without Mr. Lush's services?

A. Well, yes.

[fol. 393] Q. And who was it that talked to you about that?

A. Mr. Danielson.

Q. Has Vern Smith ever been in here to see you from Omaha?

A. No.

Q. And what did they tell you, this representative of the railroad company, what did they tell you about the proposition of making a settlement with you if you would discontinue Mr. Lush's services?

Mr. Beal: I will for the record object to this question and all other questions along this line for the reason that they were immaterial, irrelevant and incompetent for any purpose.

Q. Now go ahead and answer.

A. Would you repeat the question?

Q. Will you tell us what they told you or what discussion the claim man had with you as to what they would do

with making a settlement if you discontinued the employment of Mr. Lush?

A. Well, they told me that they would like to have me wait and see what they had to offer until I was better, and such, and that if they didn't meet my demands then I should get ahold of you boys.

Q. Now counsel has referred to your signing a contract with Mr. Lush. Now isn't it true, and this is getting into the legal technology possibly, Mr. Olsen, but isn't it true that what you sent to Mr. Lush was a letter that he handle your case with the reservation that we have already discussed about?

[fol. 394] A. Well, it was a letter, yes, prepared by Mr. Clinkenbeard.

Q. And typed by your wife.

A. Yes.

Q. And that letter requested the employment of Mr. Lush.

A. That's right.

Q. And you don't remember that second contract, or second letter you wrote about it?

A. No, I don't.

Q. The firm that you were dealing with was Davis & Lush, was it not?

A. I believe so, yes.

Q. Counsel referred to Crill & Lush. Mr. Crill worked for Mr. Lush at that time I believe but was not a member of the firm.

A. Well, I didn't know either way.

Q. You were agreeable to seeing Mr. Ballieu and Mr. Clinkenbeard as representatives of the Brotherhood of Railroad Trainmen?

A. Yes.

Q. They didn't force themselves on you?

A. No.

Q. You were glad to discuss your case and determine all the facts and the help that you could get.

A. True.

Q. And Mr. McNurlan did make an investigation of your case, interview witnesses, made a complete file and also

advised you of what he'd ascertained and found, did he not?

A. That's true.

[fol. 395] Q. And you have never been charged or any bill sent to you for that service?

A. No.

Q. That is correct that you have not?

A. I have not been sent a bill.

Mr. Crill: I want the record to show that while I was reviewing my notes here that counsel who is appearing here for the plaintiff, if you call it the plaintiff, is consulting with the witness and we object to that during our cross examination.

Q. Mr. Olsen, you have given the railroad company, and that's the Chicago and North Western Railroad Company, I don't believe that's in the record, a statement have you not as to the facts of the accident?

A. Yes.

Q. Was this statement given before settlement was made with you?

A. Well, it was given I'd say at the same time. I mean the settlement was given the same time.

Q. And was it part of the understanding of your settlement that you would give them a statement?

A. Yes.

Q. And can you tell me who took the statement?

Mr. Beal: Just a minute. I'll object to all this as immaterial and irrelevant; incompetent.

Q. You may answer.

A. It was either Lau Brod or Gordon Danielson, one of [fol. 396] the two. I don't recall.

Q. They are the claim men that you have referred to here prior.

A. I believe it was Mr. Danielson.

Q. Who did the negotiating with you as to the amount for which your case might be settled?

A. Mr. Brod.

Q. And where does he live?

A. Huron.

Q. And what was the amount of your settlement?

A. I—

Mr. Beal: Objected to as immaterial and irrelevant.

A. I don't recall.

Mr. Crill: That's all.

Redirect examination.

By Mr. Beal:

Q. Now, Mr. Olsen, you appeared here today pursuant to a subpoena, is that correct?

A. That's correct.

Q. There has been some other conversations about some other letters that may or may not have been written from your home to this law firm of Davis & Lush, and you said you didn't remember them or didn't recall them, is that correct?

A. The only ones I recall are the two; one that Mr. Clinkenbeard dictated and one I wrote requesting Mr. Lush to let me handle the negotiations.

Q. Now were you still under a doctor's care while you [fol. 397] were at home just shortly after you were removed from the hospital?

A. Yes.

Q. Were you taking medication?

A. Yes.

Q. Do you know what medication if any you were taking?

A. Oh, I was taking pain pills, aspirins, and a number of them. I don't know. I had bottles and bottles.

Q. Did these medicines and drugs have any effect on your faculties to your knowledge?

A. That I wouldn't be able to say. You could consult the doctor.

Q. Now there is some testimony here about what railroad claim agents stated to you in settling your claim, is that correct?

A. Would you repeat that, please?

Q. I'll withdraw the question. There was some question here as to what railroad claim agents had visited you

during the interim that you were visited by Mr. Clinkenbeard and others, is that correct?

A. Yes.

Q. And there was some discussion as to what they said to you, is that correct?

A. That is correct.

Q. Now did you state that what you were told by Mr. Danielson was to wait and see what kind of an offer the railroad would make to you prior to having counsel?

A. That's true.

Q. Did anybody on behalf of the railroad ever state to [fol. 398] you that you should fire this law firm and not have them represent you?

A. No.

Q. Did anybody attempt to visit you and talk to you last night, the night before taking this deposition?

A. Well, there were a lot of people talked to me last night.

Q. Did Mr. Crill call you last night and ask to visit with you?

A. Yes.

Q. Did you visit with him?

A. Well, yes, I did.

Mr. Beal: That's all.

Recross examination.

By Mr. Crill:

Q. That was agreeable with you, Mr. Olsen, for me to talk with you?

A. That's right.

Q. We had a talk and I believe I had dinner at your restaurant, did I not?

A. That's true.

Q. This medication that you were taking was medicine that had been prescribed by the doctor?

A. Yes. They were prescription medicines.

Q. And your wife was present I believe at all the times that Clinkenbeard or the other men were talking to you?

A. To my knowledge she was.

Q. And you understood the information you were getting and were glad to receive it, is that true?
[fol. 399] A. True. In a situation like that you need all the information you can get.

Q. The question was asked about whether you were told to fire Mr. Lush of the firm of Davis & Lush and you said that you were not told by the railroad people. Is it correct that the railroad company representatives advised that they could not proceed to discuss the case, a settlement of the case with you unless you did get Mr. Lush no longer representing you? A. No. They didn't.

Q. Did they know or had you told them that you sent this letter to Mr. Lush?

A. Yes.

Q. And that you had been in contact with Mr. Lush's office relative to his employment.

A. Right.

Q. And I believe also that the notice of lien had been filed and you had heard about the notice of the lien being filed before you wrote Mr. Lush that you no longer wanted him to handle the case.

A. That's true.

Mr. Crill: That's all.

Mr. Beal: That's all.

(Witness excused.)

BETTE J. OLSEN called as a witness, and having been first duly sworn, testified as follows:

[fol. 400] Direct examination.

By Mr. Beal:

Q. Would you state your name, please?

A. Bette J. Olsen.

Q. And you are the wife of Clifford D. Olsen?

A. Yes.

Q. And your husband was hurt in a railroad accident on July 17th, 1959, is that correct?

A. Yes.

Q. And was your husband confined to the St. Johns Hospital as a result of this accident?

A. Yes.

Q. I will ask you, Bette, to look at what has been marked as Plaintiff's Exhibit A. Now have you seen that letter before?

A. Yes, I have.

Q. And did that letter come to your house through the mail?

A. Un-hum. Yes, it did.

Q. Did you open it when you received it?

A. No.

Q. What did you do with it?

A. I imagine I took it to the hospital to Cliff.

Q. Did a Mr. Clinkenbeard and a Mr. Ballieu visit you and your husband shortly after the accident?

A. Yes.

Q. Where did they visit you?

A. At home.

[fol. 401] Q. Was that you first? Or was that while Cliff was still in the hospital?

A. Yes.

Q. They came to the house first.

A. If I remember right Mr. Clinkenbeard came to the house first and I was at home.

Q. And did you talk to him?

A. Yes, I did.

Q. And did you two then go up to the hospital?

A. No, I don't believe I went with Mr. Clinkenbeard to the hospital. I think he went up himself if I remember right.

Q. Let me ask you this: to the best of your recollection who first contacted you, Mr. Clinkenbeard or Mr. Ballieu?

A. I think it was Mr. Clinkenbeard.

Mr. Beal: Let the record show that I object to Mr. Crill nodding his head to the witness during the time I'm taking the deposition of this witness.

Mr. Crill: Let the record show that I smiled at Mrs. Olsen, or Bette as I know her, and shook my head because she is mistaken on that as the record shows.

Mr. Beal: I'll object to what the record shows or doesn't show.

Q. Now unfortunately, Mrs. Olsen, you didn't hear your husband's testimony but your husband testified to some letters being written to a law firm of Davis & Lush and I believe the testimony was that these letters were typed by you, is that correct?

[fol. 402] A. Yes.

Q. And who dictated the letter to you?

A. Mr. Clinkenbeard.

Q. Was the letter typed as dictated by Mr. Clinkenbeard?

A. Yes.

Q. Was there any additions or deletions from what Mr. Clinkenbeard dictated to you?

A. None that I know of, no, as I recall.

Q. In one letter to Davis and Lush was a reservation placed in the letter whereby you and your husband were reserving the right to negotiate with the railroad company?

A. That's correct, yes.

Q. And did Mr. Clinkenbeard insert that in the letter?

A. Yes, he did.

Q. And did anybody to your knowledge insist upon this provision being in the letter?

A. Yes. I did.

Q. And then that letter was prepared that way.

A. Yes.

Q. Now did you know Mr. Clinkenbeard prior to the time he came to see you at your house?

A. No, I didn't.

Q. Did a Mr. Ballieu sometime come and see you?

A. Yes.

Q. Did you know Mr. Ballieu before that?

[fol. 403] A. No.

Q. And do you know who Mr. Ballieu is now?

A. Yes.

Q. And what is his occupation or profession? Who does he work for?

A. Right now at this certain time?

Q. Right at that time.

A. At that time?

Q. Yes.

A. Well, I'm quite sure he was working for the railroad.

Q. Did you at any time request or have anybody else request on your behalf that Mr. Clinkenbeard or Mr. Ballien come and see you?

A. No.

Q. Were there any discussions held between Mr. Clinkenbeard and Mr. Olsen or Mr. Clinkenbeard and Mr. Olsen and yourself regarding the retaining of this law firm in Minneapolis to represent you and your husband?

A. Yes.

Q. And when was the first discussion held at which you were present, approximately?

A. Well, this I—

Q. Let me ask you this: was there a discussion in which Mr. Clinkenbeard was present while Cliff was in the hospital to the best of your recollection?

Mr. Crill: Now are you talking about discussions of [fol. 404] the contract or just the discussion.

Mr. Beal: Just the discussion right now.

A. Well, yes.

Q. At the hospital?

A. I can't recall that, no.

Q. Let me ask you this: were you present at any discussions at which Mr. Olsen was present and Mr. Clinkenbeard was present while Cliff was in the hospital, or shortly after he was out of the hospital at home, when a discussion was had regarding whether or not you should hire the Minneapolis firm to represent you?

A. Well, this is—yes, there were discussions but whether this was discussed before Cliff was out of the hospital I'm not sure. I can't remember.

Q. It was discussed at the hospital or at your home but you're not sure of the dates, is that correct?

A. Yes, that's correct.

Q. Do you recall the general substance of the conversation at that time between Mr. Clinkenbeard on the one part and you and Mr. Olsen, your husband, on the other?

A. Well, I can recall the general trend of the conversation. Yes.

Q. Would you repeat that general trend to the best of your knowledge?

A. Definitely it was to do with this injury and what he thought that he would like to do in settling with the railroad, and so on and so forth.

[fol. 405] Q. And what if anything did Mr. Clinkenbeard state to that?

A. I'm supposed to remember that far back?

Q. If you remember. Do you remember?

A. Well, as far as any certain statement that was made, or answer, I couldn't possibly recall that.

Q. Do you recall any substance of the conversation or the statements of Mr. Clinkenbeard?

A. Well, I do remember him talking with Cliff and I both about considering different possibilities, and so on and so forth, and (no further answer).

Q. Do you recall the substance of any statements regarding the retaining of the law firm of Davis & Lush to represent you?

A. Well, yes.

Q. What was the gist of his statements to the best of your recollection?

A. If I remember right I think that they were mentioned in the way that they would be the logical help if we needed any help.

Q. And you are appearing here under subpoena, is that right, Bette, to testify?

A. Yes, I am.

Q. To the best of your recollection, Bette, you never solicited or requested Mr. Clinkenbeard or any others to come and visit with either you or Cliff about this accident, is that correct?

A. That's correct.

Mr. Beal: I think that's all.

Cross examination.

[fol. 406]

By Mr. Crill:

Q. Mrs. Olsen, Bette, this Mr. Ballieu did you understand that he was a local chairman or some officer of the Brotherhood of Railroad Trainmen?

A. Yes.

Q. And Mr. Olsen I believe has testified that he advised that Mr. Olsen was entitled to the help of the legal aid and to have an investigation done by the investigators of the Brotherhood of Railroad Trainmen if he desired, and also to employ the counsel who were recommended by the president of the Brotherhood of Railroad Trainmen. Is it your recollection that that was in substance part of the conversation that was had by Mr. Ballieu and Mr. Clinkenbeard with you and your husband?

A. Well, quite frankly I can't really remember but I would say that this was in partial right.

Q. And do you remember that Mr. McNurlan, an investigator of the brotherhood, did come and did make an investigation of Cliff's case; is that not true?

A. This is true.

Q. And he discussed I believe with you and with Cliff—Mr. Olsen—what his findings were and what he had ascertained, is that not true?

A. Right.

Q. The letter you sent, or typed I should say, to Mr. Lush was a letter as you remember, was it not, signed by [fol. 407] your husband requesting that Mr. Lush represent him but reserving to your husband the right to discuss the matter of settlement with the railroad.

A. Right.

Q. And is it not true that later another letter was sent, and I think this was about two weeks after the letter with the reservation, that another letter was sent, and that was the time that Mr. McNurlan and Mr. Clinkenbeard were out here, another letter was sent withdrawing the reservation; do you remember that? Well, let me state this: do you remember of Mr. Clinkenbeard and Mr. McNurlan coming out to your home and talking with you

and that the claim man was supposed to come back either that day or the next day by I think 5 o'clock or 3 o'clock in the afternoon, and then later that your husband called to the hotel and Mr. Clinkenbeard and Mr. McNurlan I believe, or one of them, came out and another letter was written to Mr. Lush saying that Cliff was withdrawing the reservation and wanted Mr. Lush to proceed with his case. Do you remember that second letter?

A. No, I don't believe so.

Q. Then subsequent to that there was another letter sent terminating the employment of Mr. Lush, was there not?

A. Yes.

Q. But you don't remember that letter in between.

A. No, I don't.

Q. Counsel has asked you whether a discussion was had [fol. 408] as to the possibility of employing Davis & Lush and you said that there was. Is it not true that in your discussion with Mr. Ballieu and Mr. Clinkenbeard, either one or both of them, that conversation was also had that you could hire another attorney or other attorneys rather than Davis & Lush if you so desired?

A. Yes.

Q. That is correct, is it not?

A. Yes, it is.

Q. And as far as you know no charge was ever made of any sort by either Mr. Lush or the brotherhood for the investigation or any of the work that was done in Mr. Olsen's case?

A. None that I know of.

Q. Now you were asked whether you had ever requested Mr. Clinkenbeard or any of the others to come out there to see you and you have testified that you had not or that Cliff had not as far as you know. This is true also, is it not as I believe your husband testified, that they were there with your consent and you were glad to discuss the case with them and have an investigation made and to receive help from Mr. Clinkenbeard and Mr. Ballieu, is that not correct?

A. Well, yes.

Q. And they were helpful in developing facts for you on the negligence and told you of the help that could be given on the thing; is that not correct?

A. Yes.

Q. Now during this period of time we've been talking [fol. 409] about the brotherhood representatives seeing you and Cliff Olsen, you were also being seen by claim men and representatives of the railroad company, were you not?

A. Yes.

Q. And they came and discussed the case with you and later discussed settlement with you and your husband, is that not true?

A. Yes.

Q. And you did not request them to come to see you or Cliff either, did you?

A. No.

Q. They were welcome the same as Mr. Clinkenbeard and the same as Mr. Ballieu were welcome, is that true?

A. Yes.

Q. There were other railroad men besides Mr. Clinkenbeard and Mr. Ballieu that came to see Cliff and to talk to you during the time he was in the hospital and when he was home, is that not true? As visitors I'm talking about.

A. You mean men from the railroad itself?

Q. Yes.

A. Oh, yes.

Q. In other words, he had people coming out to see him at the hospital and at home who were employed by the Chicago & North Western Railway besides the claim agents and besides these brotherhood representatives that we've talked about.

A. Yes.

Q. And your husband during this time, and I don't believe I asked him that, during this time your husband was a member of the Brotherhood of Railroad Trainmen, was he not, during all the time he was in the hospital and subsequent thereto when these conversations were had with Mr. Clinkenbeard and Mr. Ballieu?

A. Well, to be quite truthful with you I don't know.

Q. You don't know whether he is or not.

A. I don't. I never thought about it before.

Mr. Crill: I believe that's all.

Redirect examination.

By Mr. Beal:

Q. I'd like to ask one more question. Mrs. Olsen, you testified that Mr. Clinkenbeard advised you that you could hire some other lawyer if you wanted to, is that correct?

A. Yes.

Q. Did he express any definite preference to you as to who you should hire or retain?

A. I can't remember.

Mr. Lush: Off the record for a second. (Off record discussion was had.)

Mr. Crill: Respective counsel has discussed the proposition of calling Mr. Clifford Olsen back to have him answer the question whether he was a member of the Brotherhood of Railroad Trainmen at the time that he was injured and subsequent thereto, and it is agreed without calling Mr. Olsen back that he was a member of the Brotherhood of Railroad Trainmen.

[fol. 411] Mr. Beal: And this agreement on my part is based upon a prior conversation when I think Mr. Olsen expressed that he was, and also the letter introduced in evidence indicates that he was.

Mr. Beal: That's all.

Mr. Crill: That's all.

Mr. Beal: Mrs. Olsen, will you waive the right to read and sign this deposition?

A. Yes.

(Witness excused and hearing closed.)

Notary's certificate (omitted in printing).

[fol. 412]

NOTICE TO TAKE DEPOSITIONS (omitted in printing)

To Brotherhood of Railroad Trainmen:

[fol. 413]

PLAINTIFF'S EXHIBIT A

(Letterhead of Brotherhood of Railroad Trainmen,
Cleveland 13, Ohio)

July 28, 1959

Re: Clifford Olson—Lodge 190
Application Pending

Mr. & Mrs. Clifford D. Olson
411 East Talent Street
Rapid City, South Dakota

Dear Folks:

You may wonder why I am addressing this letter to both of you, but the reason for doing so is because it concerns a matter which is of the greatest importance to both of you and your children and a great deal will depend upon your team work in determining what your future financial situation will be.

When you, Brother Olson, were so seriously injured on July 17, the President of your lodge, Brother C. R. Adkins, immediately wired the fact into Grand Lodge as a good alert Brotherhood officer should do and the wire was turned over to me.

Upon receipt of the news I immediately got on the telephone and got the word to our Brotherhood Investigator in your area, Brother G. A. Clinkenbeard, and I have received word from him that he has had the opportunity

to see you and advise you as to your rights. As you can see, your Brotherhood representatives both locally and here in Grand Lodge are very much interested in your welfare and all of us have done everything we could do to protect your interests up to a certain point. When that point has been reached we cannot go any further without the "go sign" from you. It will now be up to you and your good wife to talk the situation over thoroughly and decide what you believe will be the right move for you to make. This may perhaps be a difficult decision to reach for I know from my almost thirty years of experience in working in this department that there will be many people calling upon you and giving you all sorts of advice and among these, of course, will be the company claim agent and possibly some of the railroad officials.

These latter, naturally, have one thought in mind and that is protect their company and save their employer as much money as they possibly can. That is their job and if they don't put out every effort to fulfill that obligation, some of them might very shortly be numbered among the unemployed.

[fol. 414] Others who may call on you will, no doubt, tell you of this or that attorney, who according to the one telling the story, can perform miracles for you. On that score your Brotherhood, some thirty years ago, established a Legal Aid Department and appointed in various parts of the country attorneys whose records for honesty, integrity and ability had been thoroughly investigated and to whom our injured members and our widows and orphans can go and expect to get a square deal.

Our Brotherhood also saw fit to appoint Brotherhood members in various areas as Brotherhood Investigators. These investigators are railroad men with many years of experience and know all of the problems with which our members are confronted. Brother Clinkenbeard, who has already talked to you, is one of the best of these and you can rest assured that you can rely on whatever he tells you as being the truth.

I would suggest that it will be to your advantage to heed his advice. Keep in mind, above everything else, that it is you who has suffered these grievous injuries and it will be up to you to make the decision which will work out to your best advantage and the sooner you make that decision, the better for all concerned.

I have addressed this letter to your home instead of to the hospital to insure that there is no chance of it getting into the wrong hands and I sincerely hope you will keep what I am telling you in strictest confidence between you, your wife and your Brotherhood representatives.

Please understand that the Brotherhood or I personally have no financial interest in your case whatsoever. We do, however, want to see you get a square deal and we know you will get it if you will listen to the right people.

I will appreciate hearing from you and if there are any questions you may care to ask or any comments to make, please feel free to do so.

Hoping that you are coming along as well as can be expected, and with my very best wishes, I am,

Fraternally yours,

/s/ C. R. MAHER

C. R. Maher, Chief Clerk
Legal Aid Department

CRM:JMC

cc: Mr. C. R. Adkins, Pres.

Mr. G. A. Clinkenbeard, Brotherhood Investigator

[fol. 415]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

COMMONWEALTH OF VIRGINIA, ex rel., VIRGINIA
STATE BAR, Complainant,

—VS.—

BROTHERHOOD OF RAILROAD TRAINMEN, et al., Defendants.

Deposition of Paul A. Hodges—June 22, 1961

The deposition of Paul A. Hodges, of the County of Wayne and State of Illinois, a witness of lawful age produced, sworn and examined, upon his corporeal oath, on the 22nd day of June, 1961, at the office of Kelley A. Loy, Second Floor, Fairfield National Bank Building, in the City of Fairfield, County of Wayne and State of Illinois, duly appointed by a notice, the original of which is attached hereto, for the examination of the said Paul A. Hodges as a witness in the above entitled cause now pending and undetermined in said Court. Paul A. Hodges took an oath previous to the commencement of his examination.

APPEARANCES:

Kelley A. Loy for Aubrey R. Bowles, Jr., Counsel
for Complainant

and

Robert E. Harrington for Beecher E. Stallard,
Counsel for the Brotherhood of Railroad Train-
men.

[fol. 416] The following oath was administered to PAUL A. HODGES: "Do you solemnly swear that you will tell the truth, the whole truth and nothing but the truth in the matter of The Commonwealth of Virginia, Complainant, against The Brotherhood of Railroad Trainmen pending

in the Chancery Court of The City of Richmond, Virginia,
so help you God?"

A. I do.

Direct examination.

By Mr. Loy:

Q. Will you state your name?

A. Paul A. Hodges.

Q. Where do you live?

A. Sims, Illinois.

Q. That is in Wayne County, Illinois?

A. Yes, sir.

Q. How long have you lived in Wayne County, Illinois?

A. This time, 4 months the 17th of this month.

Q. Where did you live previous to that?

A. Anderson, Indiana.

Q. How old are you?

A. 40.

Q. Are you married?

A. Yes, sir.

Q. Is your wife here?

A. We are separated.

Q. She lives at 2319 Central Avenue, Anderson, Indiana?

A. That is the address to contact her at. Whether she
lives there or not I don't know.

Q. That is the address of her son?

A. Yes, sir.

Q. She is not in Wayne County, Illinois, at this time?

A. Not that I know of.

Q. Are you working?

A. No, sir.

Q. How long has it been since you have worked?

[fol. 417] A. Right to the day it will be two years the
13th of August.

Q. What kind of work were you doing?

A. At that time I was a brakeman on the New York
Central Big Four Branch.

Q. And working out of what station or district?

A. Working out of the South Anderson yards.

Q. In the State of Indiana?

A. Yes.

Q. And you were living in what town at that time?

A. Anderson.

Q. Anything happen that day you quit work, August 13, 1959?

A. Yes, sir. A train ran over my right leg and cut it off.

Q. And that was while you were working for the New York Central?

A. Yes.

Q. Were you a member at that time of the Brotherhood of Railroad Trainmen?

A. Yes, sir.

Q. And previous thereto?

A. Yes, sir.

Q. Where did they take you after the accident?

A. Marion Memorial Hospital, Marion, Indiana.

Q. How long did you stay there?

A. Five days.

Q. They amputated your leg?

A. Yes, sir.

Q. Did any member or official of the Brotherhood of Railroad Trainmen call on you at the Marion hospital?

A. Yes, sir. The local chairman, Fred Harmon.

Q. Did you know Fred Harmon?

A. Yes sir. I worked with him several times.

Q. And you knew he was an official of the Brotherhood?

[fol. 418] A. Yes, sir.

Q. By the Brotherhood, I mean the Brotherhood of Railroad Trainmen.

A. Yes, sir.

Q. Do you know what office he held at that time?

A. Local Chairman.

Q. Did you request that he come to see you?

A. No, sir.

Q. And where were you when he came to see you?

A. I was in a ward. They was two beds in it. An old man was in the other bed. I don't know who he was.

Q. Anyone else?

A. My wife, Betty.

Q. What did he say, if anything?

A. He got to talking about the legal aid—

Mr. Harrington: I object to what he says he said. He is not present.

A. He said that I should contact this Legal Aid of Chicago and sign a contract with them and that they could get me as high as \$173,000.00 for this one leg.

By Mr. Loy:

Q. What else did he say?

A. Said he would make all the arrangements for us.

Q. What arrangements did you take that to mean?

A. I figured he meant contacting legal aid up there at Chicago and getting transportation to go up there and getting everything ready.

Q. Was anything said about what the legal aid was and what they did?

A. Yes, lawyers, and that was all they done was fight these cases where men was hurt.

Q. Fight these cases for whom?

A. Fight it for the Brotherhood.

Q. Do you remember anything else he said?

A. He said they would take twenty-five per cent of what I got.

[fol. 419] Q. Who would take twenty-five per cent?

A. Lawyers for the legal aid up there.

Q. What do you mean by "up there"?

A. Up there at Chicago.

Q. Did he say anything about his experience with accidents?

A. Right off hand I don't remember. That was quite awhile ago.

Q. Did he give you any advice about talking to anyone about the accident?

A. Yes. He said his advice was to sign a contract with the legal aid of Chicago.

Q. Did he say anything about what would happen if you didn't sign?

Mr. Harrington: I object. That is a leading question.

By Mr. Loy:

Q. Do you remember anything else he said.

A. He said if we didn't go through the legal aid I would end up getting nothing out of it.

Q. Do you remember anything else he said?

A. At the hospital? No.

Q. You don't recall anything else?

A. No. Yes, I do. He said that they might give me a shot and make me drowsy and then have some claim agent come in have me sign some kind of paper, a release paper.

Q. Did he say whom he meant by they would give you a shot?

A. I don't remember.

Q. Who did you think he meant?

A. I took it for granted them there at the hospital.

Q. Did anyone else come to see you while you were in the hospital at Marion, Indiana?

Mr. Harrington: I object unless we chain it down to the date that the person visited.

Mr. Loy: Let me re-phrase my question. Did you see any other persons connected with the Brotherhood of Railroad Trainmen while you were in the hospital at Marion, Indiana?

{fol. 420} A. Yes, Bob Morris.

Q. When did he come?

A. I believe that was about the third day I was in the hospital.

Q. Did you know him previous to that time?

A. Yes.

Q. Did you know he was a member of the Brotherhood of Railroad Trainmen?

A. Yes.

Q. Do you know whether he had any office in the Brotherhood?

A. If I remember right he was treasurer of the Brotherhood.

Q. That is the local lodge at Anderson?

A. Yes, sir.

Q. Where did he live?

A. At Anderson, Indiana.

Q. How far is Marion from Anderson?

A. Approximately twenty-five miles.

Q. Where did Mr. Harmon live?

A. Anderson.

Q. What did Mr. Morris say to you?

A. Bob Morris came up more or less as a friendly visit to see if I needed anything.

Q. Do you remember anything else he said?

A. Just carried on a friendly conversation. He was talking about my insurance I had with the Brotherhood, about what I had coming off of it.

Q. And do you recall anything else he said?

A. No, I don't.

Q. When you left the Marion Hospital, did you go home or where were you taken?

A. St. Johns Hospital at Anderson.

Q. How long did you stay there?

A. About two and one-half days.

[fol. 421] Q. Did anyone come to see you there?

A. Fred Harmon come again.

Q. Is that the same Fred Harmon who called before?

A. Yes, sir.

Q. What was said this time?

A. Just about the same thing he said up at Marion—

Mr. Harrington: I am going to object to that unless he can give at least an approximate date he was there.

A. I can tell you exactly, just a minute. I went to the Marion hospital the 13th of August. Fred came up on the next day, the 14th, and Robert Morris came up I think it was about the 15th. I was there five days and transferred to St. Johns on the 18th and the 19th Fred Harmon came back again to St. Johns at Anderson.

By Mr. Loy:

Q. And what he said to you you have repeated as far as you can recall?

A. Yes, sir.

Q. Where did you go from St. Johns Hospital in Anderson?

A. I went to 2319 Central Avenue, Anderson.

Q. What is there?

A. My step-son's home.

Q. Was that your residence where you were living?

A. No. At that time me and my wife was separated and we sold everything and I was staying at 200 Andover Road in Anderson and when I went to the hospital my wife came back and when I was released from the hospital we went to my step-son's at 2319 Central Avenue.

Q. That's in Anderson, Indiana?

A. Yes, sir.

Q. Did anyone from the Brotherhood come to see you there?

A. Fred Harmon came again.

Q. When was that?

A. About the 22nd of October.

[fol. 422] Q. What did he say?

A. The day I got out of the hospital, I had an old '33 Kaiser and my step-son took it and put it in his garage the same day I got hurt, and when I gets out of the hospital I goes out, backs it out and drives it around. He called and my daughter-in-law told him where I was at and he came down and he got on to me about me getting out and driving this car around and walking up and down the street on my crutches and saying that the railroad would be taking pictures of it and when I went up to the legal aid they would flash it on the screen and I would be lost.

Mr. Harrington: Who would flash it on the screen?

A. The railroad company.

By Mr. Loy:

Q. At the trial of the case?

A. Yes.

Q. What do you mean he got on you?

A. He got to telling me off about getting out and driving my car—

Q. Talking to you about it?

A. Yes, and about walking around on my crutches.

Q. Did he say anything about a contract?

A. Yes, he said he was making arrangements for me to go to Chicago and sign the contract with the legal aid and so they could take my case.

Q. Did he have anything with him?

A. No.

Q. No papers or anything with him?

A. No.

Q. Did he ever come again?

A. Yes, he came at least once a day.

Q. For how many days?

A. I was at my step-son's a week and then we moved to 1604 Brown Street and we lived there approximately 2 weeks.

Q. Did he come to see you when you were living at Brown Street?

[fol. 423] A. Yes, every day. At least once a day.

Q. Didn't miss a day?

A. No.

Q. What did you talk about?

A. About my case up with the legal aid, what I should be doing and what I shouldn't be doing.

Q. Can you be more explicit?

A. He said stay in the house and not get out where they could see me.

Q. Did you ever go to Chicago?

A. No.

Q. Did you make arrangements to go?

A. Yes, he called Mr. Henslee and made arrangements and told Mr. Henslee that he would have to have expenses.

Mr. Harrington: I am going to object to that unless he says who was present when the call was made.

By Mr. Loy:

Q. Who was present at the time he made that call?

A. Mr. Harmon, my wife and myself.

Q. And you could hear what Mr. Harmon said?

A. Yes.

Q. Could you hear what Mr. Henslee said?

A. No.

Q. Tell us what Mr. Harmon said?

A. He told Mr. Henslee he would have to have expenses. I don't remember the date he had set and to top it off I had to pay for the telephone call. He said he was going to reverse the charges but it come through on my bill and I had to pay for the call. After he got through talking on the phone he said it was all set up for me to go up there and wanted to know if we could take my car. By that time me and my wife was getting so aggravated with him pestering us all the time that we agreed to go.

Q. Did he say anything else?

[fol. 424] A. He wanted to know if we had a place to stay there and I said my daughter's over on Lake Shore Drive and he wanted to know if it would be all right after we got there for him to take my car and run around in it so we agreed to let him take my car and go to where he was going to stay and pick up us the next day so he said he would see us the next day and take us there.

Q. Was anything said about where you were going in Chicago except your daughter's home?

A. No, he never told the address of the legal aid.

Q. You mean the legal aid of the Brotherhood of Railroad Trainmen?

A. Yes.

Q. Do you remember anything else about his conversation with Chicago? Anything else he said?

A. No. It's been so long ago I have forgot a lot of it.

Q. What happened the next day?

A. He came back—

Q. Who?

A. Fred. That evening after he left it made me sick at my stomach and when Fred Harmon came back the next day my wife met him at the door.

Q. Were you there?

A. Yes.

Q. Could you hear her conversation?

A. Yes.

Q. Could you hear Mr. Harmon's conversation?

A. Part of it.

Q. What did she say and what did he say?

A. She told him she wasn't going to let him in the house because when he left I was a nervous wreck.

Q. Did you hear what he said?

A. I don't remember just what he did say.

Q. Then did he leave?

[fol. 425] A. Yes.

Q. Did you talk to him about anything after that?

A. No.

Q. Your wife described you as a nervous wreck. What did she mean by that?

A. I was already nervous because when I lost my right leg I figured I lost the best part of my body and then with a man like Fred Harmon telling you what you should do and what you shouldn't do I would go to pieces.

Q. How many times did you go to pieces?

A. Every day he would come and he was there every day.

Q. Tell us what you mean by going to pieces?

A. Nervous wreck, upset stomach and everything else.

Q. Did you have any other reason to get nervous except Mr. Harmon's actions?

A. His actions and the idea of losing my leg.

Q. Were you nervous when he wasn't there?

A. No, when he would leave I would finally get settled down.

Q. Did anybody else from the Brotherhood of Railroad Trainmen come to see you other than Mr. Morris and Mr. Harmon?

A. Yes, Bob Morris came to see me at my house.

Q. This is the same Mr. Morris that called on you at the hospital?

A. Yes.

Q. And how many times?

A. He called only twice. No, three times. This time he came there and asked me if I would like for him to contact Mr. Crago. That was before my wife ran Harmon off. And I said yes I could find out more about it.

Q. Who was Mr. Crago?

A. General Chairman of the Brotherhood.

Q. Where was he located?

A. Indianapolis, Indiana.

[fol. 426]. Q. What happened when he came to see you?

A. He went by and picked up Bob Morris and they came to see me and Mr. Crago had the papers and he was talking to me.

Q. About what?

A. About the legal aid up there at Chicago.

Q. What did he say?

A. What they could do for me. He said they could get me \$173,000.00 and it would be a long drawn out session and in the meantime if I needed any money they could get it for me so while they were there—

Q. Let's just forget that for a minute. Did you know Mr. Crago before?

A. No.

Q. And Mr. Morris introduced him as an officer?

A. Yes, sir.

Q. Did he have any papers with him?

A. In a briefcase.

Q. Did you see them?

A. I didn't have them in my hand but he took them out.

Q. Did he say what they were?

A. He said they were papers for me to sign to get the legal aid to take my case.

Q. Did he tell you anything else about the papers?

A. No.

Q. What did you say about the papers?

A. I was wanting to know all about them and he was getting ready to read them to me and another lawyer came in.

Q. But you didn't get to read the papers?

A. No.

Q. Tell us about the other lawyer.

A. The other lawyer came in in connection with an accident we had had.

Q. Who had?

[fol. 427] A. The train and the crew I was with.

Q. That is not the same accident where you lost your leg?

A. No.

Q. What did he say?

Mr. Harrington: Can we identify him?

A. I can't think of his name but he was from Anderson.

By Mr. Loy:

Q. Were Mr. Crago and Mr. Morris still there?

A. Yes.

Q. Was your wife there, too?

A. Yes.

Q. All right. Now tell us what he said.

A. He was asking me about the accident and I said the only thing I could tell you would be of more harm to you than help—

Q. You mean the other accident?

A. Yes.

Q. What else did he say?

A. He asked me some questions about my accident and if I had a lawyer and I said no and he gave me his card and said if I decided I needed a lawyer he would be glad to help me and would appreciate my business.

Q. Were Mr. Morris and Mr. Crago there?

A. Yes, but they didn't stay long after he got there.

Q. You mean shortly after this lawyer came in they left and then he left?

A. Yes.

Q. Did anyone else come to see you?

A. Not until I called the clerk at the train master's office and had him get ahold of the claim agent.

Q. Do you remember Fred Weber?

A. Yes, he came to see me.

Q. Who was he?

[fol. 428] A. A retired railroadman.

Q. Was he a member of the Brotherhood of Railroad Trainmen?

A. Yes.

Q. What did he say?

A. Practically the same thing that Fred Harmon and Crago and everybody else was saying.

Q. Was he an official of the Brotherhood at that time?

A. No.

Q. Remember anything else he told you?

A. He said he had had several high offices and he knowed how things like that worked and advised me to get ahold of legal aid in Chicago.

Q. You mentioned in the telephone conversation between Mr. Harmon and Mr. Henslee that Mr. Harmon said something about having to have expenses?

A. Yes, sir.

Q. Did he say anything to you about expenses?

A. Yes, he said I would have to have gas and oil and a place to stay and after we got up there we would get the money.

Q. Was anything else said any other time about having to have expenses?

A. Not to my knowledge at this time.

Q. Or money?

A. No.

Q. Do you remember anything about what he said about where you would get the money?

A. I think he said Mr. Henslee was supposed to provide it.

Mr. Harrington: I object and ask that it be stricken.

By Mr. Loy:

Q. You have mentioned Mr. Harmon, Mr. Crago, Mr. Morris and Mr. Weber. Did anyone else talk to you at any time or place who was connected with the Brotherhood of Railroad Trainmen about your case?

[fol. 429] A. Not to the best of my knowledge.

Cross examination.

By Mr. Harrington:

Q. Mr. Hodges, did anyone who was not connected with the Brotherhood of Railroad Trainmen talk to you about the accident?

A. The claim agent.

Q. When did you see the claims agent?

A. The date?

Q. If you know it or approximately when?

A. That would be pretty hard to remember.

Q. When did you settle your case?

A. I don't even remember the date on that.

Q. Who was the claims agent who came to see you?

A. Mr. McLean.

Q. Where was he from?

A. He was from Indianapolis.

Q. Do you know Mr. Greaser?

A. Yes, he was the first claim agent who came. The reason for that was when I called the clerk at the train master's office and asked him to get in touch with the claim agent—

Q. You don't remember when this happened?

A. No.

Q. It was after Mr. Greaser had seen you?

A. Yes.

Q. Had you at any time given a statement as to how your accident happened?

A. Yes.

Q. Did you give a statement to the claims agent on August 19, 1959 when you were in the hospital?

A. I believe I did.

Q. So you did see the claims agent when you were in the hospital?

[fol. 430] A. Yes.

Q. And didn't you also see him on the 20th and the 24th?

A. Not on business.

Q. What did he come to see you about?

A. To visit.

Q. In other words, he came to see you on three different occasions and on one occasion he took a statement from you.

A. Yes, and the other times he came on a visit.

Q. Wasn't it a fact that he came to see you after you got out of the hospital and took another statement?

A. No. The only time he came to the house he came to 2319 Central Avenue and loaned me \$200.00. The railroad done that and I signed a receipt.

Q. And that receipt showed that it was to be deducted from your wages?

A. Yes, and they sure did.

Q. How many times did he loan you money?

A. Twice. The \$200.00 this time and \$20.00 another time. I got \$49,780.00 out of it.

Q. Who else was present in the hospital when you gave your statement to Mr. Greaser?

A. My wife.

Q. How did he take that statement down, long hand, shorthand, court reporter, type it out or how?

A. I believe just in regular writing.

Q. Did you sign it?

A. Yes.

Q. Did you read it before you signed it?

A. I most certainly did.

Q. So you saw Mr. Greaser three times before you settled your case?

A. Yes.

Q. And you saw Mr. McLean on how many occasions?
[fol. 431] A. Three times.

Q. What did he discuss with you?

A. I done the discussing. See, I sent for the claim agent and Mr. McLean was on vacation and they sent Mr. Greaser.

Q. Did you ask Mr. Greaser to come back on the 20th of August?

A. No.

Q. Did you ask him to come back on the 21st?

A. No.

Q. Did you have visitors?

A. Yes.

Q. Did you settle your case on September 4, 1959?

A. Yes.

Q. Was that the day after Mr. Crago visited you at your home?

A. Yes.

Q. Did you tell Mr. Crago that you wanted to discuss it first with the claims agent before you went to Chicago?

A. Yes.

Q. And then he left?

A. Yes.

Q. What—wasn't it also a fact that you told Mr. Crago you were going to ask the claims department for \$50,000.00 in settlement?

A. Yes.

Q. You stated that when Mr. Crago was in your home he had some papers there and he made some comment to the effect that you would have to sign some papers?

A. Yes. He took them out of the briefcase.

Q. What size were they?

A. About the size of the ones you have there.

Q. In other words, letter size?

A. Yes.

Q. Did he say anything about signing a contract?

[fol. 432] A. He said they would have to have a contract before they could handle the case.

Q. Who would have to have a contract?

A. The legal aid.

Q. He didn't say anything about you signing anything there?

A. No.

Q. Isn't it a fact that Mr. Crago advised you of the services of the legal aid? In other words, what they stood for?

A. Yes.

Q. And that you were entitled to their services?

A. Yes.

Q. And the charge for their services was twenty-five per cent?

A. I do remember Fred Harmon said it would be twenty-five per cent but I don't think Mr. Crago got that far into it.

Q. Who brought Mr. Crago?

A. Mr. Morris.

Q. When they came to your home did you ask them to leave?

A. No.

Q. Were you willing to discuss what they were there for?

A. Yes.

Q. But you had already told them you wanted to settle with the company first?

A. Yes.

Q. Did you tell Mr. Harmon to leave you alone?

A. Yes, just like I said my wife met him and told him I didn't want to see him.

Q. And that was the last time he came around?

A. Yes.

Q. Mr. Harmon was your local chairman?

A. Yes.

[fol. 433] Q. And Mr. Morris your secretary and took care of your insurance?

A. Yes. I collected \$2,500.00 for it from the Brotherhood and that was his purpose, to let me know about that.

Q. Did you ever ask Mr. Morris to come to see you concerning the insurance?

A. I believe when he first—when I first took the policy out—

Q. I am referring to after the accident?

A. No.

Q. Did you at any time after your accident write a letter requesting someone from the legal aid department to visit you concerning the accident?

A. I never wrote nobody after the accident, not even to my own relations.

Q. You stated that Mr. Harmon made a phone call from your phone?

A. Yes.

Q. Do you know the date of that phone call?

A. No, not off hand.

Q. Approximately when it was, how soon after the accident?

A. Approximately 3 weeks.

Q. You didn't hear the voice on the other end of the phone?

A. No.

Q. Did you hear the phone number he called?

A. No, I never.

Q. Do you know of your own knowledge who he spoke to?

A. He just called him Mr. Henslee.

Q. Did you know Fred Weber?

A. I just knowed him meeting him on the street. He was retired when I went to work there.

Q. You were willing to go to Chicago until you got sick to your stomach after the time Mr. Harmon visited you, is that correct?

[fol. 434] A. Yes.

Q. And the following day you decided not to make the trip?

A. Yes.

Q. And that was the day you told him you didn't want to discuss it with him?

A. My wife told him.

Q. Am I incorrect in saying that you saw Mr. McLean about 3 times prior to your settlement?

A. Either 2 or 3.

Q. And you saw Mr. Greaser about 3 times?

A. Approximately 3 times. But 2 on visits and then when he took my statement and brought me the \$200.00.

Q. Did he advise you at the hospital that you didn't have to make a statement?

A. Yes, he did.

Q. After your settlement did you see any more of the claims agents?

A. Yes, I saw them on the street several times when I went there to get my new leg fitted.

Q. Did you see anybody after the settlement with the Brotherhood of Railroad Trainmen?

Mr. Loy: I object to after he made his settlement.

A. I don't know but I think that is the man who took this statement here.

By Mr. Harrington:

Q. You mean the statement your attorney has here?

A. Yes.

Q. Do you know what his name is?

A. I do but I can't say it.

Q. Give us a try?

A. I can't even spell it.

Q. When did he come to see you?

A. It was at 143 Nursery Road.

[fol. 435] Q. When was that approximately?

A. About the middle of October, 1959.

Q. Did he show you his credentials?

Mr. Loy: I object to that. It has nothing to do with the issues in this case after the settlement.

By Mr. Harrington:

Q. Have you read that statement recently?

A. Yes.

Q. Did you read it today?

A. No.

Q. When did you last read it?

A. March or April of 1961.

Q. The purpose of reading it was to refresh your recollection?

A. Yes.

Q. And your testimony here today is basically what is in that statement?

A. Maybe not word for word but approximately the same thing.

Q. You saw this gentleman from the American Association of Railroads in August of 1959?

A. Yes.

Q. Who was present then?

A. My wife.

Q. Anyone else?

A. No.

Q. Did anyone come with him?

A. Didn't come in the house.

Q. Did anyone stay outside?

A. I didn't look.

Q. Did he show you his credentials from the American Association of Railroads?

A. No.

Q. You don't recall his name?

[fol. 436] A. No, sir.

Q. How many pages were in the statement he took?

A. Four.

Q. Typewritten?

A. Yes.

Q. Did he type it out in your presence?

A. Yes.

Q. You read it?

A. Yes.

Q. And signed it?

A. I signed it.

Q. How long did it take him to make the statement?

A. I don't know.

Q. Well, approximately?

A. He was there about 2 hours.

Q. Did he pay you for your time?

A. No. I wouldn't have took it any how.

Q. Did he offer to pay you?

A. No.

Q. Was that the only time you saw him?

A. Again awhile back when he came over to let me know about this meeting here.

Q. In other words, this gentleman from the American Association of Railroads told you about this deposition here?

A. He told me that Mr. Loy would notify or contact me about this thing.

Q. Did he tell you the purpose?

A. Briefly, yes.

Q. What did he tell you?

Mr. Loy: I object to that.

A. He said the Brotherhood was trying to break this up about boys getting hurt and being pestered.

Q. You came here freely on your own?

A. Yes.

[fol. 437] Q. He didn't pay you for your expenses in coming here?

A. No.

Q. How far is it?

A. Eleven miles.

Q. You have to pay this gentleman anything for bringing you up here?

A. No.

Q. Have you promised to pay him anything for bringing you up?

A. No.

Q. Can you tell us when you first knew you were going to have to come up here and give a deposition?

Mr. Loy: I object to that. It has nothing to do with the issues of this case or credibility of the witness.

A. I wasn't in too much of a shape to know.

Q. How long ago was he there?

A. March or April.

Q. Then you saw this gentleman from the American Association of Railroads on approximately two occasions?

A. Yes, sir.

Q. On the second occasion he brought with him the statement that he had taken in October, 1959?

A. Yes.

Q. And on that occasion you re-read that statement?

A. Yes.

Q. You are being paid nothing for your lost time or expenses for coming up here for this deposition?

A. Nothing whatsoever.

Q. This other attorney that you spoke about that visited you at your home, where was he from?

A. You mean the one connected with the other accident?

Q. Yes.

A. Anderson, Indiana.

Q. But he had no connection with your accident?

A. No. He was just out trying to drum him up some business.

[fol. 438] Q. Did you know Mr. Crago prior to your accident?

A. No.

Q. Had you heard of him?

A. Yes.

Q. He was an officer of your Brotherhood?

A. Yes.

Q. Has anyone from the New York Central contacted you concerning this deposition?

A. No.

Q. Did the gentleman from the American Association of Railroads advise you that he was there with the permission of the New York Central?

A. Yes.

Q. Did he have a letter to that effect?

A. I don't recall whether he did or not.

Q. Did anyone from the railroad after you settled your case take any further statements from you?

A. Not that I remember.

Q. The only statement you remember making after the

settlement was this gentleman from the American Association of Railroads?

A. Yes.

That is all.

Redirect examination.

By Mr. Loy:

Q. Are you a member of the Brotherhood of Railroad Trainmen at this time?

A. To the best of my knowledge, yes.

Q. Have you ever had any trouble with them?

A. No.

Q. I show you what is marked Complainant's Exhibit 1-a marked for identification and ask you to look it over.

(Witness takes document handed to him by Mr. Loy.)

[fol. 439] Q. Have you read it?

A. Yes.

Q. Have you noticed the signatures appearing thereon?

A. Yes, sir.

Q. What is that instrument?

A. That is a statement from me about my injuries.

Q. And is that the statement you were referring to when you were cross-examined by Mr. Harrington?

A. Yes.

Q. How long had it been since you read it prior to this day?

A. March or April.

Q. Will you look at the date on the last page?

A. January 12, 1960.

Q. Is that the date it was made?

A. Yes.

Q. You testified awhile ago it was October. Is that right?

A. That's when I thought it was.

Q. Is that statement true?

A. Yes.

Q. Did you look at the handwriting below the signature on the bottom of the page?

A. Yes, sir.

Q. Whose signature appears there?

A. My wife's.

Q. Did she sign this in your presence?

A. Yes, sir.

Q. And you signed each of the four preceding pages?

A. Yes, sir.

OFFER IN EVIDENCE

Mr. Loy: I offer in evidence Complainant's Exhibit 1 for identification, together with Exhibit 1-A being a photostatic copy of 1.

Mr. Harrington: I object to it being offered on the [fol. 440] grounds that the party who took the statement is not present to present its self-serving contents of said instrument, hearsay and it has no bearing on this deposition.

Mr. Loy: I ask leave to have withdrawn Exhibit 1-A, the photostatic copy, from the Clerk's Office at Richmond, Virginia.

Mr. Harrington: It will be attached to the deposition?

Mr. Loy: Yes.

Mr. Harrington: All right.

Mr. Loy: One point I would like to clear up, Mr. Hodges, did the conversation you had with Mr. Crago happen after you had made the settlement with the railroad company or before?

A. Before.

Q. Was your conversation with Mr. Crago before or after Mr. Harmon called Chicago?

A. After.

Recross examination.

Mr. Harrington:

Q. Mr. Morris told you about Mr. Crago when he came to see you?

A. Yes. He also told me he would bring him later on if I wished him to because I wanted to find out about this legal aid.

Q. So it was at your request that he came, is that right?

A. Yes. The only complaint I have is Fred Harmon.

Q. Is that only because he visited you so often?

A. Yes. I think you will find in that statement that Bob Morris or Crago neither one high-pressured me.

Q. How long had Mr. Harmon been local chairman?

A. About 5 or 6 months.

That is all.

Mr. Loy: One more question. You stated that your complaint was about Mr. Harmon and it was the number of times Mr. Harmon called on you you were complaining about. Was there anything else?

[fol. 441] A. And his pestering.

Q. What do you mean by pestering?

A. Running to the hospital and trying to get me to go to Chicago and get legal aid.

Q. Was it the number of times or what he said that bothered you?

A. It was the number of times. I could look for him every day.

Q. Did he say about the same thing every day.

A. Yes, sir. Every day.

Q. When you told him not to bother you any more, did he stop?

A. Yes.

Mr. Loy: Let us read this into evidence. Mr. Harrington and I understand that the rule in Virginia is that if Mr. Harrington wants a copy of the deposition that he is to pay one-half of the charge of the Notary Public for taking the deposition plus one-half of the charges for the original and the entire charge of any copies that he may order.

Mr. Harrington: The above statement of Mr. Loy is correct as far as what we know the rule in Virginia is. We have been advised by the attorney for the Complainant that that is the law of Virginia and on that basis we agree to these payments but will look for reimbursement by the attorney for the Complainant if this is not correct.

Mr. Loy: Mr. Harrington waives receiving a copy of the exhibits.

Mr. Harrington: Right.

[fol. 442] Notary's Certificate (omitted in printing).

[fol. 444]

COMPLAINANT'S EXHIBIT 1

My name is Paul A. Hodges. I live at 143 Nursery Road, Anderson, Indiana with my wife, Betty, and one of our six children. I am thirty-eight years of age. My social security number is 356-16-9541. I am not presently employed at any occupation.

On August 13, 1959 I suffered the loss of my right leg above the knee while switching cars for the New York Central Railroad at Marion, Indiana. I was employed by the New York Central as a road freight brakeman at the time of the accident. I was hospitalized for five days at Marion General Hospital in Marion, Indiana. I was transferred to St. John Hospital in Anderson, Indiana for three days and then discharged to my home at 2319 Central Avenue, Anderson, Indiana.

Within one or two days after the accident a man named Fred Harmon came to see me at the hospital in Marion, Indiana. Fred Harmon is the local chairman of the Brotherhood of Railroad Trainmen Lodge Number 318. I knew Harmon from having worked with him on the New York Central. I had not asked him to come see me and I was not expecting him. My wife, Betty, was with me at all times when Harmon was there. I was in a two bed ward with another man who was quite elderly. I don't know his name or where he was from. Harmon told me that he knew a lot about injury cases and that he knew who to get a hold of to get things started. He said that I and my wife should just trust him and he would take care of everything. Harmon warned me that the hospital would give me a shot to make me groggy and then the claim agent for the railroad would come in and have me sign something and I wouldn't get any money. He said I wouldn't get any money anyway unless I signed with the legal aid lawyers in Chicago. He said these lawyers had to keep pushing the railroads to get them to settle. Harmon told

/s/ PAUL A. HODGES

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[fol. 445] me that if the legal aid lawyers in Chicago handled my case I would get One Hundred Seventy-three Thousand Dollars (\$173,000.). Mr. Harmon talked to my

wife and I about going to Chicago to sign a contract with the legal aid lawyers but I don't remember whether he said this to me when he visited me at the hospital or when he came to see me at my home.

Bob Morris, a fellow employee and the secretary of BRT lodge No. 318, came to see me at the hospital also. Morris talked to me about my BRT insurance but not about hiring the legal aid lawyers.

Fred Harmon came to see me at St. Johns Hospital in Anderson. I remember that he said about the same things to me when he visited me at St. Johns Hospital as he had said to me at Marion General Hospital.

About the second day after I had been discharged from the hospital to my home at 2319 Central Avenue (we were staying with my step-son, Jimmy Simmons at that time) Fred Harmon came to see me again. He talked more about going to Chicago to sign a contract with the legal aid lawyers and get things started. My wife and I used to go out for a drive in my auto and when we returned Mrs. Simmons would tell us that Fred Harmon had telephoned for me. We would never call him back because we knew what he wanted.

We were only at 2319 Central Avenue about a week and then we rented a place at 1604 Brown Street. Fred Harmon came to see us right at that place. He told me not to let anyone see me using the crutches and that I should stay in the house. He also said that I shouldn't let anyone see me driving my auto. He said that the railroad would take pictures of me. One day when my wife and I had been out for a drive in my auto we came home to find Harmon waiting for us. He asked: "Where the hell have you been?"

/s/ PAUL A. HODGES

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[fol. 446] He told us that the railroad had been taking pictures of me and that they had photos of me driving my auto and using my crutches and that when my case came to trial in Chicago the railroad would flash those pictures of me up on a screen while the trial was going on and I wouldn't stand much of a chance then. Harmon once told us: "I guess you know how much work I'm going to be missing on account of helping you out." He kept telling us

not to go out of the house and it made me so nervous that I would get an upset stomach from it. My wife even go so that she felt she shouldn't even leave the house to shop for groceries.

Harmon told us that the Brotherhood would advance us money to live on until the case was settled. He said we could have any whenever we needed it. We got so tired of having him coming over to the house all of the time that we finally agreed to go to Chicago and talk with the legal aid lawyers. Harmon telephoned the legal aid law firm in Chicago on our telephone. I remember that he asked for a Mr. Henslee. Harmon arranged for us all to go up to Chicago and arrive on a Monday. He asked if we had a place to stay in Chicago. We told him that we could stay at our daughter's place. He then asked if he could use our auto to run around in while we were there. Harmon told this Mr. Henslee on the phone that he would have to have some money for expenses but he never told us that he would pay our expenses. After Harmon left both my wife and I became nervous and upset and decided not to go to Chicago. When Harmon came to the door to go to Chicago with us my wife met him at the door and told him we weren't going. My wife told him that I became sick every time he had been here and that she wasn't going to let him in the house. He never came to see us again after that happened. Harmon had come to see me at least five or six times while we were living at 1604 Brown Street.

Bob Morris came to see me at our house on Brown Street and explained about the legal aid. He explained that the

/s/ PAUL A. HODGES

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[fol. 447] legal aid lawyers would charge twenty-five per cent of whatever they settled my case for. He said that the legal aid lawyers were specialists in the field of railroad injury law. Morris told me about the legal aid and left it up to me to decide but did not pressure me like Harmon had been doing. Morris told me that he would bring a Mr. Crago from the Indianapolis Brotherhood of Railroad Trainmen to see me. About a week later Bob Morris came and brought Mr. Crago with him. Mr. Crago told us that he was General Chairman of the Brotherhood. I don't recall all that Crago said but generally he wanted me to hire

the legal aid lawyers in Chicago. He had some papers he wanted me to sign but I don't know what they were for. I didn't sign anything for him. Crago and Morris were at my house about thirty or forty minutes during which time Crago did most of the talking. During their visit a lawyer from Anderson, Indiana came to see me. Crago and Morris left shortly after this lawyer came. I don't remember his name. He gave me his business card but I threw it away. He told me that he came to see me about a crossing accident in which a young woman named Bell was injured when her auto was in collision with a New York Central train. This had happened some months prior to my accident and I was riding in the cab of the locomotive and was a witness to her accident. I told him what I knew of the accident and then he questioned me about my own accident. He told me he would like to handle my case for me after asking if I had a lawyer. He left his card and asked us to phone him if we decided we wanted to hire a lawyer.

Another man came to see me about my case. A man who introduced himself as Fred Weber came to see me on the first day we were moving into 1604 Brown Street. He told us he was retired from the New York Central and that he had worked himself up through the Brotherhood of Rail-

/s/ PAUL A. HODGES

—page five—

[fol. 448] road Trainmen's union and had held many offices. I think he said he was once president of the local lodge. He indicated that he knew a lot about railroad accidents and told me my case would be worth somewhere around One Hundred Seventy-three Thousand Dollars. He wanted me to let the legal aid lawyers in Chicago handle my case. Weber stayed about thirty minutes and never came to see me again. I did not know Weber before he came and I did not ask anyone to have him see me.

I decided to settle my claim directly with the New York Central Claim Agent for Fifty Thousand Dollars. This was settled about the first week of September of 1959.

I have read the above statement consisting of this page and four other typed pages and it is true and correct to the best of my knowledge and belief.

/s/ PAUL A. HODGES

I have read the above statement and my knowledge of the above is the same as that of my husband. The above is true to the best of my knowledge:

/s/ BETTY HODGES

I would like to add that the N.Y.C. did treat us fair and square. We have no complaints.

/s/ B. H.

Witnessed:

/s/ FRED J. SWIHART

Jan. 12, 1960

[fol. 449] NOTICE TO TAKE DEPOSITIONS (omitted in printing):

To Brotherhood of Railroad Trainmen:

[fol. 450] [File endorsement omitted]

[fol. 451] / [File endorsement omitted]

[fol. 452]

IN THE COURT OF COMMON PLEAS OF
PHILADELPHIA COUNTY

C. P. No. 1

June Term, 1961

No. 1006

COMMONWEALTH OF VIRGINIA, ex rel., VIRGINIA STATE BAR,

v.

BROTHERHOOD OF RAILROAD TRAINMEN, et al.

Deposition of Charles William Clark, Jr.

Deposition of Charles William Clark, Jr., taken, on behalf of the complainant, at the offices of Obermayer, Rebmann, Maxwell & Hippel, 1418 Packard Building, Philadelphia 2; Pennsylvania, on Thursday, June 29, 1961, commencing at 2:30 o'clock p.m. (EDST).

APPEARANCES:

Obermayer, Rebmann, Maxwell & Hippel, By: Robert W. Lees, Esq., Representing Complainant.

Duffy, Galbally, Anderson & O'Brien, By: Cornelius C. O'Brien, Jr., Esq., Representing Respondent for these proceedings only.

Esther E. Weber, Notary Public.

[fol. 453] Miss Esther E. Weber: Do you swear that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Charles William Clark, Jr.: I do under protest.

Mr. Lees: All right.

The Witness: Forced to come in here.

Mr. Lees: Thank you, Miss Weber.

Off the record.

.(Discussion off the record.)

The Witness: Did you put that in there? I swear under protest.

Mr. O'Brien: Let me make a statement for the record: I am here representing Beecher Stallard, who I understand is the attorney of record in this action in the court of original jurisdiction, and I'm here as his representative for the Brotherhood of Railroad Trainmen.

Mr. Clark, I would like to address this statement to you: That I do not represent you and, therefore, you should address no questions to me regarding legality or illegality or the propriety or impropriety of these proceedings.

[fol. 454] I might say to you that you should be and have every right to be represented by an attorney, if you so choose.

The Witness: Yes, but then I got to stand the expense of it.

Mr. O'Brien: That is correct, but I am representing Mr. Beecher Stallard, as a representative for the Brotherhood of Railroad Trainmen, and, as I stated off the record, I know nothing about these proceedings other than what Mr. Lees has told me.

A. The Witness: You know as much about it as I do then.

Mr. O'Brien: All right, then, let's proceed and see what comes out.

Mr. Lees: All right.

CHARLES WILLIAM CLARK, JR., having been duly sworn,
was examined and testified as follows:

Direct examination.

By Mr. Lees:

Q. Will you state your full name and address?

A. Charles William Clark, Jr., 1622 North 59th Street,
Philadelphia.

Q. And your employment?

[fol. 455] A. Trainman for the Pennsylvania Railroad.

Q. For how long have you been so employed?

A. Twenty years.

Q. Are you a member of a labor union?

A. I belong to the Brotherhood of Railroad Trainmen.

Q. What lodge would that be, sir?

A. 160.

Mr. Lees: Now, Mr. Clark, I am going to ask you to examine a statement and ask you if this is not your signature on this paper?

Before we go further, I guess I want to state for the record that I have been requested, Mr. O'Brien, by counsel in Richmond not to agree to waive any objections and specifically requested to ask you to note your objections at this time. Any objection that you want to make?

Off the record.

(Discussion off the record.)

Mr. Lees: Have you had a chance to examine this document?

Mr. O'Brien: I haven't.

Mr. Lees: Go ahead.

The Witness: Yes, part of that's right; part of it isn't.

[fol. 456] By Mr. Lees:

Q. That wasn't my question, sir. Is this—I draw your attention particularly to a statement, that's the writing "Charles William Clark, Jr.," and ask you if that is not your signature?

A. Let's see.

(Witness examines document.)

A. (Continued) I suppose so.

Q. Well, I ask you again to—

Do you remember being visited by Mr. Doermer and Mr. Sherman at the time that this statement was taken?

A. There was one man at the house once. I don't know who he was.

Q. There was one man who came to see you and typed it up?

A. He didn't type nothing up while I was there.

Q. Well, something typed up and brought back to you for signing?

A. I only remember him being there once.

Q. Are you able to look at the signature more closely and tell me definitely if it is or is not your signature?

A. That's my signature.

[fol. 457] Mr. Lees: I'd like to have this statement marked Plaintiff's Exhibit No. 1.

(Original copy of typewritten statement dated June 8, 1960, and handwritten statement bearing signature of Charles William Clark, Jr., dated 4-18-61, and handwritten notation bearing signature of John J. Doermer, and signature of J. A. Sherman, Witness, bearing date April 18, 1961, was marked Plaintiff's Exhibit No. 1 for Identification.)

The Witness: Part of what's in there is true and part of it isn't.

By Mr. Lees:

Q. Now, Mr. Clark, do you remember calling me on the telephone several hours ago and discussing this deposition with me?

A. I talked to somebody; I don't know who it was.

Q. Well, are you able to identify the voice of the person you spoke to as me?

A. No.

Q. But you did call somebody at this telephone number: LOcust 8-7911?

A. Yes, I did.

[fol. 458] Q. And do you remember in that telephone conversation saying—

Mr. O'Brien: That's objected to. I object to your testifying, and I object to the form of the question, and I object to the question itself as being improper for the reason that proper groundwork has not been laid as to the identity of the person with whom Mr. Clark was supposedly talking, and you, as an attorney, further, are guilty of improper conduct in attempting to testify in this proceeding.

And I want those objections stated for the record. If you want to testify, I have no objection to your being sworn.

Mr. Lees: I don't desire to testify. I desire Mr. Clark to testify as to the substance of his conversation when he called this office several hours ago.

By Mr. Lees:

Q. Will you tell us what your conversation was at that time?

A. I said I—

Mr. O'Brien: It's objected to.

The Witness: I object. I certainly do.

Mr. Lees: He's objected.

[fol. 459] The Witness: All right and I also object.

Mr. Lees: All right.

The Witness: I told you I said I didn't think you had any right dragging me out of my home down here to your office. It's Gestapo-like methods, and you'll never change my mind on that.

By Mr. Lees:

Q. Did you state you didn't know anything about the statement, which you have identified as having been signed by you?

Mr. O'Brien: That's objected to, also.

A. I don't remember that. I object, too.

By Mr. Lees:

Q. If you have objected to it, do you mind stating your reasons?

A. Because I don't want to be used as a patsy.

Q. You don't want to be used as a patsy in connection with what, Mr. Clark?

Mr. O'Brien: That's objected to.

By Mr. Lees:

Q. You don't want to be used as a patsy in what, Mr. Clark?

Mr. O'Brien: That's objected to, also. I'd like an offer of proof at this time.

[fol. 460] Mr. Lees: He's the one that said he didn't want to be used as a patsy, and I'm asking him for what.

The Witness: Anything that will further your needs or necessities or whatever you're trying to get.

By Mr. Lees:

Q. Mr. Clark, do you—

Let's return to the substance of the affidavit.

Mr. O'Brien: That's objected to. It's not an affidavit.

Mr. Lees: Strike the word affidavit. Statement.

Mr. O'Brien: Alleged statement.

By Mr. Lees:

Q. Will you state for the record what portion of this statement is true and what portion is not?

You had testified here a few minutes ago that part of it was true and part of it was not. Will you tell us now what portion is true and what portion isn't?

Mr. O'Brien: Would the reporter read back in the record [fol. 461] Mr. Clark's answer to a previous question regarding this statement.

It's one of the first questions that was asked after the exhibit was marked.

(Reporter read back as follows:

"The Witness: Part of what's in there is true and part of it isn't.")

By Mr. Lees:

Q. Now, you have heard the court reporter read your previous answer to you, Mr. Clark.

My question is now: Will you indicate from the statement which portion is true and which portion is not true, or you may tell us in your own words—

A. Tell you in my own words.

Q. —which is true and which is not true?

A. I visited Mr. Henslee at my own free will. I wasn't coerced in any manner.

Q. Yes. But I take it there's no doubt that in this case you were represented by Mr. Henslee?

A. He was of my choosing.

Q. He was your lawyer?

A. He was of my choosing.

Q. And he had represented you in an earlier case, is that right?

[fol. 462] A. That's right.

Q. How long ago was the earlier case, would you say?

A. I don't remember. It's a number of years.

Q. Well, would you say it was ten years, twenty years, eight years?

A. It might have been ten years. I don't remember.

Q. May have been ten years?

A. May have been; I don't remember.

Q. I understand these events are some time ago.

At that time was there a lawsuit started or settlement negotiated?

A. No lawsuit.

Q. On this occasion I gather from your statement that you sprained and injured the ligaments in your left ankle, is that true?

A. And tore the shin.

Q. And that was on June 6, 1959?

A. I think that was the date.

Q. Now, are you familiar with Bill Siess who works for the Brotherhood of Railroad Trainmen?

A. I know Bill.

Mr. O'Brien: It is objected to. The form of the question is objected to.

By Mr. Lees:

Q. And Bill Siess called you, is that correct, about this [fol. 463] accident?

A. I don't remember if he called me or I called him. It sticks in my mind I called him.

Q. But you had a conversation with him?

A. Yes.

Q. He also belongs to Local 160, is that correct?

A. Yes.

Q. And you have known Mr. Siess for a number of years, haven't you?

A. That's right.

Q. Bill asked you to come down to the BRT office, isn't that right?

Mr. O'Brien: That's objected to. You're leading. Ask him what happened.

Mr. Lees: I'm entitled to lead him.

Mr. O'Brien: Well, if you want to lead him, go ahead, but I am objecting to it.

Mr. Lees: You keep objecting to it for me.

By Mr. Lees:

Q. You said—I draw your attention to a portion of the statement in which you said: "Bill asked me to come down to the office of The Brotherhood of Railroad Trainmen in The Middle City Building at Philadelphia to talk over my [fol. 464] case." Is that what happened?

A. I don't remember that.

Q. You don't remember that.

Did you go to the Middle City Building and talk to him about the case?

A. I went down to pay my dues.

Q. Did you talk to Bill Siess in the office about the case?

A. I don't remember.

Q. You don't remember.

Now, I notice that this statement is dated June 8, 1960. Were you spoken to on one occasion about this case by an investigator, or were you spoken to on more than one occasion?

Mr. O'Brien: What investigator? Can you identify him?

Mr. Lees: Yes.

By Mr. Lees:

Q. I am asking you: Were you visited on one—or I'm asking you to explain, if you can, why this paper is dated June 8, 1960, and why in your writing is it dated 4-18-61?

A. I wouldn't know about that.

Q. My question to you is, sir: Were you visited on one [fol. 465] occasion by someone in connection with this statement or on two?

A. I can't answer that. I don't remember.

Q. Did somebody come to your house and discuss this episode with you in June of 1960 and thereafter revisit you in April of this year?

A. I don't remember anybody being there.

Q. Well, you remember somebody visiting you at least once when you put your signature on this paper, don't you?

A. This—this man there, or whatever his name is. Lees—Lees was there: I remember him being there.

Q. No, I'm Lees.

A. You were there.

Q. No, I've never been to your house.

A. Whoever it was identified himself as Lees.

Q. Nobody ever identified himself as Lees.

A. Somebody did.

Mr. O'Brien: You don't know. You're not under oath. You say they didn't, and you weren't there.

Mr. Lees: Well, that's true; I wasn't there.

Mr. O'Brien: You say you weren't there. He said a [fol. 466] man identified himself as Lees, and you said, no, he didn't.

Mr. Lees: Off the record.

(Discussion off the record.)

The Witness: The name Lees was used, and I assume that's the man that was there.

Mr. Lees: This is on the record.

By Mr. Lees:

Q. Do you see the name Lees on this anywhere?

Mr. O'Brien: I agree that it's not on there.

Mr. Lees: Well, I want the witness to state that.

A. No, I don't see it.

By Mr. Lees:

Q. Now, your testimony is that somebody who identified himself as Lees came to your house and did what—presented this statement to you to be signed?

A. That's the name I thought he used. I won't swear to this.

Q. You won't swear to it. So it may have been Sherman or it may have been Doermer. It could have been somebody else, couldn't it?

A. It could have been anybody; I don't remember.

[fol. 467] Q. This is in your writing, is it not, the language: "The above statement is true and I will swear to it if really necessary." Is that also in your writing?

A. Yes.

Q. That's in your writing.

A. I've changed my mind about that though.

Q. Your signature and the date is in your writing, also?

A. Yes.

Q. You remember the day you wrote those three things, do you not,—

A. I remember writing those.

Q. —on April 18th?

A. Yes, but I changed my mind about that last sentence there.

Q. You changed your mind, but you're under oath.

Do you remember Mr. Doermer writing this: "Charles William Clark, Jr. read the above statement and stated it is entirely true. He refused to sign this statement, however, indicating he did not wish to become involved in any kind of difficulty. John J. Doermer"?

A. I remember.

Q. Do you remember somebody writing this and signing [fol. 468] "John J. Doermer"?

A. I remember somebody writing that. I couldn't swear to that—

Q. But whoever it was signed it "John J. Doermer"?

A. —though.

Q. Did you see him write this?

A. No.

Q. Was that person somebody who identified himself as Lees?

A. I said I don't remember the name he gave me.

Q. You don't remember, all right.

On the right-hand side there is the name of the attesting witness, "J. A. Sherman," and the date, "April 18, 1961." Was that written in your presence?

A. Well, it—if it was, I didn't see him write it. I won't say it was, or wasn't.

Q. So it's possible?

A. Possible or impossible, I don't know.

Q. Now, April 18, 1961, was a little more than two months ago. Do you remember whether or not this paper was brought to you typed up, or did somebody type it up in your presence?

A. Nobody typed anything in my presence.

[fol. 469] Q. Nobody typed anything in your presence?

A. No.

Q. Are you sure about that?

A. Positive.

Q. Absolutely sure?

A. Absolutely.

Q. Did somebody leave and type it and bring it back, or was it brought to you in this form?

A. That's the first I seen a typewritten form.

Q. On that occasion—the date you signed it?

A. Until—yes, the day I signed it.

Q. So that, when it was brought to you, it was brought to you in this form and read to you, and you executed it, is that correct?

A. The point is that there was no typewriting done in my house.

Q. No, you didn't hear my question, Mr. Clark. My question was: This was brought to you in written form and after you read it you wrote: "The above statement is true and I will swear to it if really necessary. Charles William Clark, Jr., 4-18-61"?

A. Yes.

Q. That's what happened?

A. Yes.

[fol. 470] Q. Now, having testified that this was brought to you in this form and read by you and executed, are you now able to tell us whether or not somebody had visited you before that time and discussed the substance of this statement?

A. Well, they must have because the original—the original wording was in longhand.

Q. I see. There was a previous statement that was taken in longhand, is that correct?

A. Yes.

Q. And was that taken by Mr. Doermer, if you remember, the same person that wrote this down here (indicating)?

A. I don't remember the name.

Q. Well, do you remember the face? Was it the same man that had visited you before and talked about the facts contained in this statement?

A. I'm not sure, but I don't think so.

Q. You don't think so. Could it have been?

A. It's possible.

Q. It's possible. And after Mr. Doermer or whoever it was that came and gave you the statement you had an opportunity to read it over, of course, before you signed it, didn't you?

A. Yes.

[fol. 471] Q. And you did read it over?

A. Yes.

Q. Now, on that occasion, whenever you gave this statement originally and it was written down in longhand, you advised the man who took it that you had known Siess and that "Bill asked me to come down to the office of The Brotherhood of Railroad Trainmen in The Middle City Building at Philadelphia to talk over my case." Did you say that on that occasion?

A. I may have, but I like to change that. I don't remember if I asked him or if he asked me for a conference.

Q. I see.

A. It seems to me that I asked him for a conference.

Q. Seems to you that you asked for a conference. Very well.

Then the statement goes: "He told me I should let the Brotherhood handle my claim for me; that the union's lawyer was E. B. Henslee, and that Henslee would get a fair settlement for me." Did you tell him that?

A. I told Bill I wanted Henslee to handle that.

Q. No. Did you tell the man who took the statement originally that statement?

[fol. 472] A. Possibly.

Q. And, of course, you read it over before you signed it.

Did you tell the investigator that "Bill Siess also told me on the telephone that they would have my accident investigated for me, and that if I was hard up for money, he would see to it that I got a couple of hundred dollars."

Did you tell him that?

A. I don't remember.

Q. You don't remember that?

A. May have, but I'm not sure.

Q. May have?

A. May have, but I'm not sure.

Q. It is possible that you did tell him that?

A. It's possible, but I wouldn't say yes.

Q. But, on the other hand, you wouldn't say no, would you?

A. I don't know.

Mr. Lees: Now, Mr. Clark, I caution you that you're under oath.

Mr. O'Brien: That's not necessary; he knows that.

The Witness: I understand.

Mr. Lees: I want you to do your best to remember these [fol. 473] things.

The Witness: I'm not a criminal. I've never been arrested for anything except a minor traffic violation.

By Mr. Lees:

Q. Without respect to what you told the investigator who then took this statement, did Mr. Siess tell you that he would have your accident investigated for you and that he would see that you got a couple hundred dollars if you were hard up?

Mr. O'Brien: That's objected to.

A. I said I don't remember,—

By Mr. Lees:

Q. You don't remember?

A. —whether I said that or not.

Q. Now, I ask you if you had a telephone conversation with Mr. Siess about this subject?

Mr. O'Brien: That's objected to.

The Witness: Do I have to answer that?

Mr. O'Brien: Yes, over my objection.

I cautioned you in the beginning that I am not your attorney.

The Witness: I realize that. I'm just asking you. [fol. 474] Would you ask that question again, please?

(Last question was read by the reporter as follows:

"Q. Now, I ask you if you had a telephone conversation with Mr. Siess about this subject?")

The Witness: I talked to Bill Siess about the case, yes, about my being hurt.

By Mr. Lees:

Q. Did he call you on the telephone and advise you that he would have the accident investigated for you?

Mr. O'Brien: That's objected to.

A. I called him I'm sure.

Q. You called him?

A. It was long distance call to his home.

Q. Are you quite certain that that's the way it was?

A. I made a long distance call to his home.

Q. Are you able to give us any explanation, Mr. Clark, why you told the investigator that he called you when you now testify under oath that you called him?

Mr. O'Brien: That's objected to.

A. Who knows what you say in a time like that, jeez.

Q. Is that your explanation, Mr. Clark?

[fol. 475] A. The man who visited me is a smooth talker. He's liable to get me to say most anything.

Q. Is your explanation that he put these words in your mouth, persuaded you to say that?

A. No, I don't say that.

Q. What do you say? What is your explanation?

A. I say at the time I wasn't responsible for what I was saying.

Q. What do you mean, Mr. Clark, that you weren't responsible for anything?

A. Well, I wasn't myself. I was mad for one thing.

Q. You were mad?

A. Yes, being bothered by somebody I didn't know about something that was none of their business.

Q. And so, because you were mad, you told him something that wasn't true, is that correct?

A. I don't remember.

Mr. O'Brien: That's objected to. You're characterizing the witness' testimony.

Mr. Lees: Mr. Clark is characterizing, not I.

By Mr. Lees:

Q. Are the facts contained in this statement true, Mr. Clark, or is the statement you're giving here today true?

[fol. 476] Mr. O'Brien: That's objected to. The facts in the statement can be true and the facts that he's testified to today can be true.

Mr. Lees: Let him explain.

Mr. O'Brien: He's entitled to explain that if he can, and he's explaining that, I think.

The Witness: Not everything on that paper is true.

By Mr. Lees:

Q. So on this occasion you were lying and signed it?

Mr. O'Brien: Objected to. You're intimidating the witness.

Mr. Lees: I am not intimidating the witness. He said it wasn't true, so it must be a lie.

The Witness: I told you I wasn't myself. I was liable to say anything at that time.

By Mr. Lees:

Q. So that it is true that you did have a conversation with Siess about the Brotherhood handling your claim. The only difference between the statement that you have given here in Exhibit 1 and your testimony today is that the telephone call might have been made by you rather than by Siess, is that correct?

A. I called.

[fol. 477] Q. Where is his home?

A. It's one of the suburban towns.

Q. Do you know his address?

A. No.

Q. Do you know what his telephone number is?

A. No.

Q. Had you ever called him before?

A. No.

Q. Have you ever called him since?

A. Not since.

Q. That's the only time you called him.

So you said in your statement that Siess said that he would see to it that you got a couple hundred dollars? Is that the way it happened?

A. He asked me if I needed money. I'd been off—injured for some time.

Q. So he said he would see you got a couple hundred dollars?

A. I took it to mean that on—it would be a personal loan between he and I, and I told him I didn't need any money.

Q. Now, you said that "He didn't say where the money would come from, but I gathered that Henslee would advance it to me."

[fol. 478] A. Well,—

Q. Do you remember so testifying in this statement?

A. Yes, could have been either way. But when I thought of it later, I thought that Bill—Mr. Siess was hinting that he would loan me of his funds.

Q. You thought that he was hinting, but he didn't say that he would loan it to you, did he?

A. No, he didn't say that.

Q. And he didn't say that Henslee would loan it to you, did he?

A. No.

Q. But you gathered on April 18, when you gave this statement, it would be a loan from Henslee; but today you've known it would be from Siess?

A. I thought—I've known Bill for a—oh, a number of years—I thought—

Q. Has anything happened between April 18th and June 29th to make you change your opinion as to the source of this money, Mr. Clark?

Mr. O'Brien: That's objected to.

A. What do you mean?

By Mr. Lees:

Q. In your relations with Siess has anything happened? Has he given you an indication in loaning you money [fol. 479] that would make you think it would be coming from him?

A. Never spoke to him about it directly.

Q. Never spoke to Siess about this directly?

A. Not the actual loan of money from him.

Q. I see. Now, you testified in this statement—

Mr. O'Brien: He didn't testify in that statement.

Mr. Lees: He stated.

The Witness: That's not sworn to.

Mr. O'Brien: I prefer: it is stated in the statement.

By Mr. Lees:

Q. I will—in an effort to make Mr. O'Brien happy—say that it is stated or it appears in this statement—

A. I wish you'd do that, too.

Q. —that "Bill indicated to me that if I did not hire Henslee, I wouldn't get a fair deal from the company, although I don't remember the exact words he used that gave me that impression."

Do you remember saying that in connection with that statement?

A. He never actually said that the company would take me over without the Brotherhood's help. He never actually [fol. 480] said that.

Q. But he did suggest it to you?

Mr. O'Brien: That's objected to.

A. I wouldn't say that he did.

Q. Would you say that he did not?

Mr. O'Brien: That's also objected to.

A. I wouldn't say that he did not.

Q. It's possible, then, that he was suggesting without Henslee's help you wouldn't get a fair deal from the company?

Mr. O'Brien: That's objected to.

A. Well, who knows? I don't know what was in his mind.

Q. Well, I'm asking you what was it in your impression?

Mr. O'Brien: This isn't a deposition of impressions; it's a deposition of facts.

Mr. Lees: He's entitled to have an impression.

The Witness: I have a right to change that.

By Mr. Lees:

Q. You have a right to an impression on—

A. I don't remember that I had any definite impression.
[fol. 481] Q. Well, you do remember signing this statement in which you said you had an impression, don't you?

A. All right.

Q. And you now remember that your impression has changed?

A. I said I don't have any definite impression.

Q. Do you have any indefinite impression?

A. No.

Mr. O'Brien: That's objected to.

By Mr. Lees:

Q. Your answer is no?

A. No.

Q. Well, is Siess a smooth talker?

Mr. O'Brien: That's objected to.

A. He's a man I've known over the years.

By Mr. Lees:

Q. You said on April the 18th that he was a smooth talker. Is he or is he not a good talker?

A. He's a good linguist. He's a man that knows—can talk to anybody.

Q. All right, and you said that "he gave me to understand that with Henslee as my lawyer, my job and seniority rights would be protected since Henslee was the union's lawyer." Do you remember so stating?

[fol. 482] A. It's possible.

Q. Well, it's—perhaps you misunderstood me. There's no doubt that you did say that in this statement of April 18th, is there?

A. It's on there I said it.

Q. It's on there you said it?

A. Course, that may be misinterpreted, too.

Q. Did he give you to understand that your job and seniority rights would be protected if Henslee represented you?

Mr. O'Brien: That's objected to.

A. Not in so many words.

By Mr. Lees:

Q. Not in so many words, but he did give you that understanding though?

Mr. O'Brien: That's also objected to.

A. I don't remember.

By Mr. Lees:

Q. Well, now, Mr. Clark, you said on April 18th that he did give me to understand that?

A. I told you I wasn't up to par when I made that statement.

Q. Well, it's possible that he gave you to understand that?

[fol. 483] Mr. O'Brien: It's also impossible, possible or impossible.

The Witness: Possible, but I don't remember.

Mr. Lees: Will the counsel for the BRT make objections to the questions without trying to suggest answers to the witness.

Mr. O'Brien: I'm not.

Mr. Lees: Well, you're commenting for the record and that comment is unnecessary. The record is clear without the unnecessary statement that it's possible or impossible.

Mr. O'Brien: Thank you for the instructions on procedure in this deposition.

Mr. Lees: I would never attempt to give you any instructions, Mr. O'Brien.

So that our friends in Virginia will not misunderstand, I will state for the record that you're one of the best qualified young plaintiff's lawyers in town.

Mr. O'Brien: Thank you very much.

Mr. Lees: Off the record.

(Discussion off the record.)

Mr. Lees: All right, back to it.

[fol. 484] By Mr. Lees:

Q. You remember in your statement saying that you did meet Henslee and Bill Siess in the union office?

A. In the union office?

Q. That's what you stated here in Plaintiff's Exhibit No. 1, Mr. Clark. I will read it to you. "I met Siess at the union office several days later as requested, and when I arrived at the office, Attorney Edward B. Henslee of Chicago, Illinois, and Bill Siess were both there waiting for me." Do you remember so stating?

A. Now, I know I was off the beam, because I didn't talk to Henslee in the Brotherhood office.

Q. Where did you talk to Henslee?

A. In the—

Q. In the Bellevue Stratford?

A. I went over there.

Q. You went over there to see him for a couple days?

A. Yes.

Q. Did you go there by yourself?

A. I went there alone, yes. I asked what his room number was and I went.

Q. After Mr. Siess had told you to come to town and the day you should go over there to see him?

A. I asked when Mr. Henslee would be in town.

[fol. 485] Q. And Siess told you?

A. That's right.

Q. Was anybody else there besides Henslee?

A. Bob Moss.

Q. Who's Bob Moss? Is he another lawyer?

A. Not to my knowledge.

Q. Well, is he is a member of Local 160?

A. As far as I know. I don't know.

Q. He was a union member?

I'm asking you, really, was he somebody that was known to you? He wasn't a stranger?

A. No, no. Oh, yes, I know Bob Moss.

Q. Henslee and Bob Moss were there, and was Siess there?

A. Yes.

Q. And you had a conversation with Henslee on that occasion, is that right?

A. That's right.

Q. And this was how long after your accident, would you say? Was it three months, or six months, or four months?

A. Gee, I don't remember.

Q. But it was some time following your accident?

A. Yes.

[fol. 486] Q. At the time you went down to see him were you able to get around?

A. Yes.

Q. Did you have to use a cane? Was your leg in a cast?

A. No, I was walking then without the artificial help.

Q. And how long a recuperation period did you have, approximately, after your accident?

A. I was off a total of five months.

Q. Five months. And did you see Mr. Henslee while you were still off or was it following your return to work?

A. It was afterwards.

Q. So that it would be sometime after—in November, sometime after November 6, which is the date five months following your accident?

A. Well, I was back to work at the time.

Q. You were back to work?

A. Yes.

Q. So, can I suggest, was it in the end of 1959 or was it in 1960?

A. I don't remember the date.

Q. Was it before or after Christmas, do you remember?

A. I'm not sure. I'm not going to give you a date unless [fol. 487] I'm sure and I'm not sure.

Q. That's all right.

Had you been back to work very long when you went to see Mr. Henslee?

A. Couldn't have been too long.

Q. Couldn't have been too long?

A. No.

Q. Matter of several weeks, could you say that?

A. I would believe that would be right.

Q. That would be fair, all right.

Now, on that occasion when you saw Mr. Henslee, did you describe the nature of your accident to him?

A. I did.

Q. And did he have a secretary take down your testimony, or did he write it down himself?

When I say testimony, I mean—

A. Statement.

Q. —your version of the facts.

A. I don't remember a secretary being there.

Q. Did he make notes of the statement?

A. I'm not even sure of that.

Q. Yes. When you met Henslee, had you ever met Mr. Henslee before?

[fol. 488] A. Yes.

Q. Had you had dealings—

Was he a young man or an old man?

A. He was a young man.

Q. Had you been represented by him before or by his father?

A. Once by his father. I remember a long time ago, and I believe once by the son, but I'm not sure. I think once by the son.

Q. I see. Did Mr. Henslee identify himself as the lawyer for the Brotherhood?

A. Yes.

Q. And, as a matter of fact, you already knew that he was the lawyer from the Brotherhood with the conversations with Mr. Siess?

A. Well, I knew it without Siess' conversation.

Q. You knew that he was the lawyer?

A. Yes.

Q. And have you seen Mr. Henslee on any other occasion following that meeting in the Bellevue Stratford?

A. Just once, I think.

Q. You saw him once. Where was that?

A. Same place.

Q. You saw him on one of his later visits to Philadelphia?

[fol. 489] A. Yes.

Q. And were you on the occasion of that visit requested by Mr. Siess to go down and visit him?

A. I don't think so. I think I asked to see the man if I remember rightly. That I asked when he'd be back in to town.

Q. And did you, when you first saw Mr. Henslee, sign a form of agreement retaining him to represent you in the case against the railroad?

A. Yes.

Q. And did he thereafter represent you and settle your case?

A. That's right.

Q. And how much money did you receive?

A. Total of five thousand dollars.

Q. Now, in connection with this subpoena that has been issued, do you remember what efforts were made to subpoena you last week end?

Mr. O'Brien: That's objected to. It's completely immaterial.

Mr. Lees: O.K., object.

Mr. O'Brien: Do you know what efforts were made to subpoena you?

[fol. 490] Mr. Lees: I'm asking the questions. You can ask him later.

Mr. O'Brien: I don't know how he would know what efforts were made.

The Witness: Rephrase that a little bit.

By Mr. Lees:

Q. Were you home last week end?

Mr. O'Brien: That's objected to.

A. I'm in the house by myself. I'm in and out, and I'm not in the house very much and—I mean, after eleven o'clock. My wife isn't there. She's visiting—helping my daughter out in New Jersey. She's been over here for several months and for that reason I'm not in the house much.

Q. Mr. Clark, you testified—when the oath was administered, you said you were here under protest. What did you mean by that?

A. Because I don't like the idea of being drag away from my work to further somebody else's benefit.

Q. Were you afraid to appear in this place?

Mr. O'Brien: Objected to.

A. No. Absolutely not. I have—I got nothing to hide.

Q. Do you have any reason to believe anyone will take [fol. 491] reprisals for your testifying?

Mr. O'Brien: That's objected to.

A. No, I don't.

Q. You have no reason—

A. No.

Mr. O'Brien: Has anybody threatened to take reprisals if you testified?

The Witness: No.

Mr. O'Brien: Any threatened reprisals?

The Witness: No.

Mr. Lees: You examine on cross-examination.

Mr. O'Brien: It's just a lot of gopher dust; particularly, the man goes to subpoena him and the person to be subpoenaed is not home.

Mr. Lees: Off the record.

(Discussion off the record.)

By Mr. Lees:

Q. As a matter of fact, you made an effort to avoid subpoena in this case?

Mr. O'Brien: That's objected to.

A. Well, subpoena's something new to me. The man comes to where I live—I don't know what it's all about.

[fol. 492] Q. You made an effort to avoid coming in here, didn't you?

Mr. O'Brien: That's objected to.

A. I have every right to, because I'm being misused.

Q. Why do you think you're being misused?

A. Because you're dragging me in here and I object.

Q. And you objected yesterday when you were sought to be subpoenaed by someone, didn't you?

Mr. O'Brien: That's objected to.

A. Don't know what's going on. Some character I never seen in my life trying to give me something.

Q. As a matter of fact, he tried to stuff it in your pocket and you wouldn't take it, isn't that so?

Mr. O'Brien: That's objected to.

A. I don't know. I had my back turned to—

Q. As a matter of fact, you weren't handed the subpoena then, were you?

A. No.

Q. Weren't you wondering what it was or didn't you—

A. He's got a subpoena. How do I know it's not something injurious to my health.

Q. And, therefore, you wouldn't stop to read it, is that correct?

Mr. O'Brien: Objected to.

[fol. 493] A. I'm not handling nothing I don't know what it is.

Q. And, as a matter of fact, you were fearful of having to come to this proceeding to testify?

Mr. O'Brien: That's objected to.

A. No, not necessarily.

Q. Not necessarily?

A. That wasn't really the reason.

Q. You said you really didn't want to testify in this case, is that right?

Mr. O'Brien: That's objected to.

A. I said I objected to being—coming down here and being drug out of my own home.

Q. And that was in a conversation with me, and this is what you said to me, isn't it?

A. I didn't get that, please.

Q. Was this statement made in a conversation with me?

Mr. O'Brien: That's objected to.

A. It could have been.

Q. It could have been. In fact, this was a conversation that took place about twelve o'clock or half past twelve today, isn't that right?

A. I said I objected being drug out of my own home to further someone else's needs.

Q. And that was during twelve o'clock or half past twelve [fol. 494] today?

A. Thereabouts.

Q. All right. No dispute that you had a telephone conversation with me today and complained about testifying in this case?

A. No, I complained about that.

Mr. O'Brien: I have many witnesses who complain about that.

The Witness: I don't know what it's all about. I never had any papers thrown at me. I have nothing to do with law. I don't want to get tangled up with it. The further away I am the better I feel.

By Mr. Lees:

Q. Did somebody call you to explain these depositions and explain the nature of the proceedings?

Mr. O'Brien: Would you identify the person?

Mr. Lees: This would have been a telephone call on Tuesday morning. Mr. Sherman.

The Witness: Somebody called the house.

Mr. Lees: Somebody called the house on Tuesday morning and identified himself as Mr. Sherman.

Mr. O'Brien: Is that Mr. Sherman the same person whose name is on Exhibit 1?

[fol. 495] Mr. Lees: Yes.

By Mr. Lees:

Q. And he had a brief telephone conversation and asked for you to see him, is that right?

A. Don't remember what his conversation was, except that I didn't want to talk anything more about the case.

Q. And he said that he wanted to visit with you and explain the nature of the proceedings and let you know why you were being subpoenaed, didn't he?

A. Words to that effect.

Q. And at that time you told him, as you have stated here now, you didn't want to talk about it?

A. That's right. I was ready to leave the house.

Q. So that there was an opportunity made to explain the whole proceedings to you, wasn't there?

A. Well, I suppose he'd call it an opportunity. I certainly didn't call it no opportunity.

Q. So there's no doubt that we've made an effort to try to put your mind at ease about this thing, is there?

A. You couldn't put my mind at ease. You're dragging me in on something that I got no connection with.

Q. But Mr. Sherman was going to explain your connection, wasn't he, on Tuesday morning?

A. I told Mr. Sherman that I didn't have time to talk [fol. 496] to anybody. I was in the act of leaving the house when the phone rang. I had somewhere to go.

Q. And did you offer to make an appointment with Mr. Sherman?

A. No.

Q. You didn't want to?

A. I didn't offer to.

Q. So then, Wednesday, June 28th, would you state for the record the circumstances of the subpoena, please.

Mr. O'Brien: What do you mean by the circumstances of the subpoena?

The Witness: No papers.

Mr. O'Brien: He was subpoenaed and he's here pursuant to the subpoena in all probability.

By Mr. Lees:

Q. There were none? But somebody tried to hand you papers, isn't that right?

A. Yes.

Q. Somebody tried to give them to you and you refused, didn't you?

A. That's right.

Q. Where was this, in your home or—

A. No, it was in the Pennsylvania Railroad Station.

Q. Above 30th Street?

[fol. 497] A. Above 30th Street.

Q. What time?

A. This was quarter after three or—

Q. Half past three?

A. About quarter after three.

Mr. O'Brien: Could you identify the person who served the subpoena?

Mr. Lees: John E. Gillmor. It's not notarized yet.

Mr. O'Brien: Who is Mr. Gillmor, Mr. Lees?

Mr. Lees: He's a law clerk employed in this office.

The Witness: I don't know who he is. I never heard of him.

Mr. Lees: He's a third year law student at the University of Pennsylvania.

The Witness: Or subpoena server. He might have been for all I know. He didn't identify himself.

Mr. O'Brien: Was he on railroad property when he served you?

The Witness: Certainly was. He was interfering with my work.

[fol. 498] By Mr. Lees:

Q. He was interfering with your work. How was he interfering?

A. He was interfering with my duties. I was following out the orders of the yardmaster on a train movement.

Q. And he came up to you and tried to hand it to you, and you wouldn't take it?

A. No, no, this—

Mr. O'Brien: Of course, all testimony as to the service of the subpoena is objected to.

Mr. Lees: I understand.

The Witness: He came into the office of the assistant trainmaster—told the assistant yardmaster. When I asked for permission to leave the yard with my train, the assistant yardmaster—assistant trainmaster wanted to see me in his office.

By Mr. Lees:

Q. So that you—

A. It wasn't the assistant trainmaster; it was this character, whoever he is.

Q. So you were actually subpoenaed in the railroad office?

A. In the railroad office.

[fol. 499] Mr. O'Brien: Sounds like the railroad cooperated with the subpoena server.

The Witness: I don't know. They may not have known who he was.

By Mr. Lees:

Q. So you were called from the yard—

A. I taken—I was taken away from my train movement.

Q. —and directed to go to some other place to receive the subpoena, is that right?

A. If I had known what that was for, I wouldn't have even went over there. I was carrying out my—the orders of the assistant trainmaster—the yardmaster at the time I got this conversation over the phone.

Q. Now, returning to your statement, Mr. Clark, we have discussed it and you have pointed out certain variations between the events as they actually occurred and the events as you set them forth in this statement, haven't you?

A. That's right.

Q. Is it your testimony here today that except for those points the events as they are recited here in Exhibit No. 1 are true and correct?

A. Well, I want it understood before I answer that that I wasn't coerced by Henslee and anyone to do with—

[fol. 500] Q. Just answer my question.

Mr. O'Brien: He can make any statement he wants to make.

Mr. Lees: He can make any statement he wants after he answers my question. My question was—
Would you please read that back?

(The question was read by the reporter as follows:

"Q. Is it your testimony here today that except for those points the events as they are recited here in Exhibit No. 1 are true and correct?")

By Mr. Lees:

Q. All right, now answer the question and, then, make your statement.

A. I'll have to look at that.

(Witness examines Plaintiff's Exhibit No. 1.)

A. (Continuing) I don't remember him saying that I would get rooked. I said it here, but I don't remember him saying that.

Q. It's possible that he might have said it though?

A. It's possible that he did not say it.

Q. But at any rate when you read and signed that paper, you didn't seek to change it anyway, did you?

[fol. 501] A. I told you I was in no condition to realize, what I was doing.

Q. Now, we're turning from my question.

Now, apart from the statement that we've already discussed, the statement is true and correct?

A. Except for the part about the company rooking me.

Mr. O'Brien: How about the part whether Siess called you or you—

The Witness: No, I called Siess.

Mr. Lees: I object.

Mr. O'Brien: He testified earlier to that, and what you're trying to do is restrict his testimony by having one final question.

Mr. Lees: I'm trying to bring out the areas—

Mr. O'Brien: They're covered. Are you summing—

Mr. Lees: I don't think they are.

Mr. O'Brien: Are you summing up now?

Mr. Lees: I am not, Mr. O'Brien, because there's no jury.

Mr. O'Brien: There's no reason for summing up, because his testimony speaks for itself.

Mr. Lees: His testimony certainly speaks for itself.

[fol. 502] By Mr. Lees:

Q. You say that apart from those portions of the statement, the part of the statement that says that Siess called you and apart from the part of the testimony that says that you would be rooked if your case wasn't handled right—

Mr. O'Brien: That's right. Any case that's not handled right the client gets rooked.

Mr. Lees: He says he didn't say that.

Mr. O'Brien: I mean, if he did say it, I would agree with him.

Mr. Lees: I'm only asking him for his view.

The Witness: I don't remember the word rooked.

By Mr. Lees:

Q. Apart from the statement where you said that Mr. Siess called you—

A. I called him.

Q. You called him. But apart from that, this statement is correct?

A. And I asked to see Mr. Henslee. They didn't say come down. They didn't say that. I asked to see Henslee.

[fol. 503] Q. I understand.

A. That was my idea.

Q. Although you did say: "He told me I should let the Brotherhood handle my claim for me; that the union's lawyer was E. B. Henslee, and that Henslee would get a fair settlement for me." You did say that, didn't you?

A. I consider Henslee a good lawyer; and if there was a case that he handled, I think he'd handle it right.

Q. But you did say that? You did testify that "He told me I should let the Brotherhood handle my claim for me; that the . . ."

There is no doubt you said that as it is written down?

A. I wanted the Brotherhood to handle my case regardless of what Bill Siess said.

Q. But that's what you told the investigator?

A. You can strike that out.

Mr. O'Brien: You're explaining your statement, is that right?

The Witness: That's right.

By Mr. Lees:

Q. Are you able to explain any more clearly why you said—you told the man who took this statement that it [fol. 504] was Siess that told me that I should let the Brotherhood handle my claim, when today you say that it was your idea that he handle the case?

A. I don't know why I said that.

Q. You don't know why you said that?

A. No.

Q. But nobody coerced you into signing this statement, did they?

A. No. But, only thing, I was glad to get rid of the guy, and I was liable to sign anything just to get rid of him.

(Short recess taken, during which Reporter Gayla Grove was replaced by Reporter Betty Felix.)

By Mr. Lees:

Q. Are you charging the Virginia lawyers with coercing you?

A. No, I'm not.

Q. And you don't care to give any information as to Virginia lawyers?

A. No, I don't know anything about Virginia lawyers.

Q. Has anybody coerced you in this case?

A. No.

Q. You haven't been coerced at all?

[fol. 505] A. No.

Q. You're under oath. There's no doubt about that.

A. That's right.

Mr. Lees: Cross-examination!

Cross examination.

By Mr. O'Brien:

Q. I didn't talk to you about this case?

A. I never seen you before.

Q. And this is the first time I've asked any questions of you regarding the purpose of your being subpoenaed to testify here today?

A. I never had any conversation with this man before in this room.

Mr. Lees: When you say this man, you mean Mr. O'Brien?

The Witness: That's right: Mr. O'Brien.

By Mr. O'Brien:

Q. Did you ever notify William Parker Kennedy, the President of the Brotherhood, of any of the matters that you testified to here today?

A. (Nodding negatively.)

Q. You'll have to indicate yes or no. I notice you're shaking your head in the negative but—

A. William Parker Kennedy?

[fol. 506] Q. Yes. The President of the Brotherhood of Railroad Trainmen. Did you ever tell him of any of the facts to which you testified here today or any of the facts as set forth in Plaintiff's Exhibit No. 1?

A. I don't remember ever having any conversation with this man Kennedy, either written or spoken.

Q. I see. Now, prior to your injury in June of 1959, you had suffered injuries on the railroad before, had you not?

A. Yes.

Q. Did you retain counsel to represent you—

A. Yes.

Q. —in those injuries?

A. Yes.

Q. Whom did you retain at that time?

A. Same.

Q. E. B. Henslee?

A. Same firm.

Q. And that would be the firm of Henslee, Monek & Murray?

A. I don't know what the other two names are. I remember Henslee.

Q. There was Edward B. Henslee, Sr. You knew the elder Mr. Henslee, who is now deceased?

[fol. 507] A. Yes, I knew him.

Q. And I take it that the Henslee you dealt with in this action was Edward B. Henslee, Jr., his son?

A. That's the way he was introduced to me, yes.

Q. Do you know that Mr. Edward B. Henslee, Jr., and Mr. Edward B. Henslee, Sr., during Mr. Henslee, Sr.'s lifetime, were law partners? Were you aware of that?

A. That's my assumption.

Q. Now, you stated or it is stated in Plaintiff's Exhibit No. 1 that Bill Siess called you regarding the retention of Mr. Henslee as your counsel in this case; is that correct? That is in the statement.

A. That was in the statement.

Q. And you've testified under direct examination by Mr. Lees that it is your best recollection that you called Mr. Siess regarding this accident?

A. That's right. I got his phone number through the Brotherhood office.

Q. To whom at the Brotherhood office did you talk?

A. Farrell.

Q. And what was the purpose of your call to Mr. Farrell?

A. I wanted to talk to Bill Siess and through him I got Siess' number.

[fol. 508] Q. After you got hold of Mr. Siess, what conversation did you have with Mr. Siess? To the best of your recollection, would you tell us what you said to Mr. Siess and what he said to you.

A. Well, to the best of my recollection, I wanted—I told Bill that I wanted to talk to Mr. Henslee. I wanted also to know when he would be in town.

Q. What did Mr. Siess say in response to that inquiry?

A. He told me when he would be in town.

Q. Did you ask Mr. Siess to make an appointment with Mr. Henslee for you? Do you recall whether or not that happened?

A. I'm not sure of that.

Q. All right. Could I suggest this to you: That, after Mr. Siess found out when Mr. Henslee would be in town, Bill called you and told you when he would be in town and arrangements were then made for you to see Mr. Henslee.

A. I found out one way or the other, but I'm not sure how I did find out.

Q. The request to see Mr. Henslee was initiated by you?

A. That's right.

Q. And it was not suggested to you by Mr. Siess that [fol. 509] you see Mr. Henslee?

A. No. Because I had met Mr. Henslee before, and he handled the case for me before, and I wanted to talk to him.

Q. You wanted to talk to him about your case?

A. That's right.

Q. After you talked to Mr. Henslee about your case, you signed an agreement with him to have him represent you; is that correct?

A. That's right.

Q. Was that of your own free will and consent?

A. Oh, yes.

Q. Was it due in any part at all to any prodding or suggestion by Mr. Siess?

A. No. That's the way I wanted it.

Q. Were you satisfied with the way that Mr. Henslee handled your case?

A. Yes.

Q. During the course of your conversation with Mr. Henslee, I believe it is stated in this statement marked Plaintiff's Exhibit 1 that Mr. Henslee said to you that you had a very good case but that, if it were not handled right, you would get rooked. Now you say that you did not use that language.

[fol. 510] A. I don't remember using that word because it's not normally in my vocabulary.

Q. Therefore, I suggest to you that that is probably the language of the gentleman who took this statement.

A. It's possible.

Q. Now, Mr. John J. Doermer, who has a notation on Plaintiff's Exhibit No. 1, and Mr. J. A. Sherman, whose signature appears as a witness, came to see you; correct?

A. Yes, but singly.

Q. Did they ever come together?

A. I don't think so.

Q. When they came to see you, did they identify themselves?

A. Yes, I guess they did.

Q. Do you recall how they identified themselves?

A. One of them showed me a card, but I don't know which one.

Q. All right. Do you recall what the nature of the card was? What was on it?

A. No, I don't. At the time, it satisfied me as to his identity, but I don't remember what was on it.

Q. May I suggest any of the following: Did they say anything about the Virginia Bar Association?

[fol. 511] A. I don't remember that.

Q. Did he identify himself as an investigator or an agent for the Association of American Railroads?

A. Yes.

Q. Do you recall that?

A. Yes. I don't know which one it was.

Q. You don't recall whether it was the gentleman who came to see you first?

A. No, I don't remember which one it was, but one did say he represented the Association of American Railroads.

Q. This statement is dated at the top: June 8, 1960. Do you recall which gentleman came to see you first? Mr. Doermer or Mr. Sherman?

A. Well, the one—let's see. The one that called first is the one that identified himself with the Association of American Railroads.

Q. All right. Now, you don't recall whether or not that was the gentleman who witnessed it? Would that be Mr. Doermer who came first?

Let me try to refresh your recollection. The statement is dated June 8, 1960, but the date opposite what appears to be your signature and the date—

Mr. Lees: Of course I object to that. He said it was his [fol. 512] signature, so there's no doubt about it.

By Mr. O'Brien:

Q. —and the date it was witnessed, both are stated as April 18, 1961. So two dates are involved here: June 8, 1960, and April 18, 1961.

A. Must have been a mistake there in the dates, because they weren't that far apart.

Q. And you stated that you did not meet Mr. Henslee at the Lodge office, but at the Bellevue-Stratford; is that correct?

A. I don't recall seeing Mr. Henslee at the BRT at all. I know I went over to the Bellevue-Stratford and seen him.

Q. You mentioned John Farrell earlier. Can you identify John Farrell?

A. Yes. He's the Lodge Secretary.

Q. And his office is at the Middle City Building?

A. That's right.

Q. And he's the gentleman who gave you Mr. Siess' phone number?

A. That's right.

Q. As a result of that, you placed this call to Mr. Siess, inquiring as to when Mr. Henslee would be in town, that you [fol. 513] you wanted to see Mr. Henslee?

A. Well, the way that come about, I got the phone number from Farrell of Mr. Siess. I called Mr. Siess' house, and he wasn't home. I left word with his wife that he was to call me; I wanted to talk to him.

Q. Then there is no inconsistency in your statement that Mr. Siess did call you. He called you in response to a call that you made to his house.

A. At my request.

Q. He wasn't home. He called you back, and that's how you made this appointment.

Mr. Lees: Will you move so I can see the witness?

The Witness: His wife answered the phone or some woman I took to be his wife, and I asked that John call me when he got home.

By Mr. O'Brien:

Q. So Mr. Siess did give you a call, but it was in answer to your call that you had placed earlier.

A. At my request.

Mr. O'Brien: Yes. That's all I have.

Redirect examination.

By Mr. Lees:

Q. Mr. Clark, what is Mr. Siess' position in the Local? [fol. 514] A. Technically I don't know, to be honest with you.

Q. Is he an officer of the Local?

A. My impression is that—

Q. I'm asking you first do you know whether or not he's an officer member of the Committee?

A. I don't know that for sure.

Q. You don't know for sure. Tell us what you think. What he might be.

Mr. O'Brien: Objected to.

By Mr. Lees:

Q. Tell us what you were going to say originally.

A. I think he works for Mr. Henslee.

Q. You think he works for Mr. Henslee?

A. Yes.

Q. You mean looking for clients?

Mr. O'Brien: That's objected to.

By Mr. Lees:

Q. Just tell us what you were going to say.

A. He works for Henslee, and directly what his duties are I'm not sure.

Q. But you knew that, by going to him, you would be able to find out when Mr. Henslee was coming to town.

A. Yes.

[fol. 515] Q. And any other information you needed to get.

A. I found out. My idea, talking to Bill, was to find out when Henslee would be in town because I wanted to talk to him.

Q. And you, of course, knew from his activities that he was associated with Mr. Henslee and you'd be able to find Mr. Henslee through him?

A. That's right.

Q. And that would still be true, of course, wouldn't it?

A. Yes.

Mr. O'Brien: That's objected to.

By Mr. Lees:

Q. Do you know whether Mr. Siess contacts other people on behalf of Mr. Henslee now?

Mr. O'Brien: That's objected to.

The Witness: I don't know that.

By Mr. Lees:

Q. Would it be possible?

Mr. O'Brien: Oh, yes, anything is possible.

The Witness: That would likely be guesswork on my part.

Mr. Lees: All right. That's all I have.

[fol. 516] Let me ask you a couple more questions.

By Mr. Lees:

Q. Do you remember, when referring to Plaintiff's Exhibit No. 1, Mr. Doermer or whoever signed this says:

"Charles William Clark, Jr., read the above statement and stated it is entirely true. He refused to sign this statement, however, indicating he did not wish to become involved in any kind of difficulty."

Did you read the statement and tell Mr. Doermer it was entirely true?

A. I suppose I must have.

Q. Did you at that time refuse to sign it because you didn't want to become involved in any difficulty?

A. That's right.

Mr. Lees: That's all I have.

CHARLES WILLIAM CLARK, JR.

(Adjourned at 4:00 o'clock p.m.)

[fol. 517] Notary's certificate (omitted in printing).¹

[fol. 521]

PLAINTIFF'S EXHIBIT No. 1

Philadelphia, Philadelphia County, Pennsylvania
June 8, 1960

My name is Charles William Clark, Jr. I am fifty-one years old, and live at 1622 North 59th Street, Philadelphia, [Owens]

Pennsylvania with my wife, Catherine Price, and our two children. I work as a Conductor for The Pennsylvania Railroad Company, and have worked for that railroad for about eighteen years.

[Marginal notation—/s/ CWC 4-18-61]

On June 6, 1959 while I was working for the railroad, I sprained and injured the ligaments in my left ankle.

About two months after my accident, Bill Siess, a Regional Investigator for The Brotherhood of Railroad Trainmen in the Philadelphia area called me on the telephone at my residence, and told me he had heard I had been hurt on the job. I am a member of Local 160 of The Brotherhood of Railroad Trainmen, and had known Siess, who also belongs to that local, before. Bill asked me to come down to the office of The Brotherhood of Railroad Trainmen in The Middle City Building at Philadelphia to talk over my case. He told me I should let the Brotherhood handle my claim for me; that the union's lawyer was E. B. Henslee, and that Henslee would get a fair settlement for me. Bill Siess also told me on the telephone that they would have my accident investigated for me, and that if I was hard up for money,

he would see to it that I got a couple of hundred dollars. He didn't say where the money would come from, but I gathered that Henslee would advance it to me. Bill indicated to me that if I did not hire Henslee, I wouldn't get a fair deal from the company, although I don't remember the exact words he used that gave me that impression. Siess is a smooth talker, and he gave me to understand that with Henslee as my lawyer, my job and seniority rights would be protected since Henslee was the union's lawyer.

I met Siess at the union office several days later as requested, and when I arrived at the office, Attorney Edward B. Henslee of Chicago, Illinois, and Bill Siess were both there waiting for me. Siess introduced me to Henslee, whom I had not met before, and they both told me that Henslee was Legal Counsel for The Brotherhood, and would handle my case for me against the company. Henslee told me I had a very good case, but that if it were not handled right, I would get rooked. They gave me a contract form to sign, and I signed it, retaining Henslee as my lawyer. He later settled my claim for \$5,000.00.

I have carefully read the above statement, which is typewritten on a single page. This statement is entirely true.

[The above statement is true and I will swear to it if really necessary.]

/s/ CHARLES WILLIAM CLARK, JR. 4-18-61

Witness:

/s/ J. A. SHERMAN

April 18, 1961.

Charles William Clark Jr. read the above statement, and stated it is entirely true. He refused to sign this statement; however, indicating he did not wish to become involved in any kind of difficulty.

/s/ JOHN J. DOERMER]

[fol. 522] - NOTICE TO TAKE DEPOSITIONS (omitted in printing)

To Brotherhood of Railroad Trainmen:

Bracketed matter indicates a handwritten change and additions.

[fol. 523] [File endorsement omitted]

[fol. 524]

IN THE CHANCERY COURT OF THE CITY OF RICHMOND, VIRGINIA

COMMONWEALTH OF VIRGINIA, ex rel,
Complainant,

—VS—

BROTHERHOOD OF RAILROAD TRAINMEN, et al,
Defendants.

Discovery Deposition of Kenneth H. Gibson—July 6, 1961

Taken at Clinton, Iowa commencing at 9:30 A. M., July 6th, 1961 pursuant to notice dated June 19th, 1961, which notice is attached hereto.

APPEARANCES:

Carroll F. Johnson, Clinton, Iowa, upon behalf of the Complainant.

JAEGER & JAEGER, 715 Foshay Tower, Minneapolis 2, Minnesota by Allen McCarthy for Defendant.

Taken before and reported by:

ALFRED E. BRANDENBURG,
Notary Public, Shorthand Reporter,
1107 No. 3rd St.,
Clinton, Iowa.

[fol. 525] KENNETH H. GIBSON, called as a witness for the purpose of taking his discovery deposition upon behalf of the Complainant, after being first duly sworn by Alfred E. Brandenburg, a Notary Public in and for Clinton County, Iowa, testified as follows:

Examination.

By Mr. Johnson:

Q. Will you give the Reporter your name, please?

A. Kenneth H. Gibson.

Q. Your address?

A. 439 3rd Avenue, North.

Q. Your occupation?

A. Bowling alley employee.

Q. How old are you?

A. 28.

Q. Are you married?

A. Married.

Q. Do you have a family?

A. Yes.

Q. What does your family consist of?

A. Three children, myself and my wife.

Q. Would you give us your wife's name and name the children?

A. Caroline Jane Gibson, the oldest child is Terry Gibson, the second child's name is Kenneth A. Gibson and the youngest child's name is Lawrence Patrick Gibson and, of course, myself.

Q. How long have you lived here in the City of Clinton?

[fol. 526] A. Well, I was born and raised here.

Q. This is your home?

A. This is my home.

Q. Calling your attention to the 19th day of November, 1959, state whether or not you sustained an injury at that time?

A. On what date?

Q. On or about the 19th day of November, 1959?

A. It was the 9th of November.

Q. State if you were injured in the year 1959?

A. Yes, I was injured in the year 1959.

Q. Do you recall the date?

A. November 9th.

Q. Where were you injured?

A. At the switching yards in the City of Clinton.

Q. What was your occupation at that time?

A. I was employed as a switchman.

Q. For whom were you employed?

A. Chicago & North Western Railway.

Q. And this injury was sustained by you in the course of your employment?

A. That is right.

Q. As a switchman?

A. As a switchman.

Q. Will you tell the Reporter the nature of your injury?

[fol. 527] A. Well, I was crushed between two box cars, —two cars; I received a shoulder separation, broken collar bone, three broken ribs in my back.

Q. And where were you taken after the injury for treatment?

A. To the hospital here in Clinton.

Q. Which hospital?

A. Jane Lamb Hospital.

Q. Do you remember the time of day you were taken there?

A. Yes, it was in the early hours of the morning, around 2:00, 2:30 or 3:00 o'clock in the morning.

Q. What day of the week was November 9th?

A. I believe it was on a Thursday night, I am not sure.

Q. Who was your doctor?

A. Dr. Joseph E. O'Donnell.

Q. I will now ask you whether or not you received a call from a Mr. E. A. Stouvenel of this City at the hospital shortly after the accident?

A. Well, I had my wife talked to Mr. Stouvenel.

Mr. McCarthy: Your wife called him, in other words?

A. That is right; he come up and saw me at the hospital.

Q. When did your wife call Mr. Stouvenel?

A. I think it was the next day after my accident I am pretty sure; I don't remember; there was a couple days; it [fol. 528] was pretty foggy to me.

Q. Did you ask her to call him or did some one else suggest it to her?

A. I feel certain I asked her to call because there was various things I wanted to find out about my unemployment; things of that nature also, things of that nature also.

Q. What date was it Mr. Stouvenel called, if you know?

A. I believe it was the 3rd, 4th or 5th day; I believe it was either the 4th or 5th day—everything right now, time elapsed, it is pretty hard to put it together.

Q. Had you known Mr. Stouvenel before your injury?

A. Oh, he has, only as the President of my Union; I never made personal contact with him prior to that.

Q. You never talked to him or seen him, you didn't know him to see him?

A. No.

Q. You say he was President of your Union?

A. Yes sir.

Q. Which Union is that?

A. Brotherhood of Railroad Trainmen.

Q. Is that a national Union?

A. Yes sir.

Q. With offices in Cleveland, Ohio?

A. I don't know where the offices are; it is a national organization.

[fol. 529] Q. They have unions similar to the union you belong to all over the United States, or is it that one union?

A. It is a nation-wide association.

Q. How long had you belonged to the union?

A. Ever since I entered in the service of the railroad.

Q. How long did you work for the railroad?

A. Well, I went to work some time in August of 1957 until the time of my accident.

Q. Now, when Mr. Stouvenel came to the hospital, please state what was said at that time by Mr. Stouvenel, if you would please.

A. Well, just like I say the time from when this happened until now is quite a bit of separation; it is going to be hard to recall everything. I know he brought up the unemployment forms for me to fill out and he made a talk about how I was,—I was very concerned about my,—I believe I asked him if I could get any information on what I should do.

Q. Take your time, Kenneth, speak directly to him so he can get it. I will start over—

A. And the obtaining possible protection of myself and my job and—

Q. Well, now, did Mr. Stouvenel call at your bedside at the hospital more than once?

A. Well, after that first visit I asked if he wouldn't keep in contact with me so I could more or less find out any

[fol. 530] information I might have to give as far as protecting my rights as an individual and my association with the railroad and as a Brotherhood Trainman he was in that position to do so; he was more educated on the ways of the railroad than I was and there was a lot of things I didn't know as far as protecting my job; that is primarily what I was interested in at the time, protecting my job and my rights.

Q. I don't believe you answered my question. I was trying to find out how many times he called at the hospital; how long were you in the hospital, that might help you recollect.

A. I was in the hospital twice; I was in a week or a week and a half and out two or three days and then went back in I think for another week.

Q. During the first period you were in the hospital.

A. I think he called back once or twice after the original.

Q. On the first visit there did he explain to you anything at all about the accident and the liability of the railroad?

A. Well, he didn't explain anything about the accident because he didn't know all the facts about it himself. When I was asking him what I should do and what I can do to protect myself, of course, I had heard of various individuals getting hurt and receiving adjustments for their injury and, [fol. 531] of course, I didn't realize how bad I,—how bad my injury was at the time but I wanted to find out what I could do as an individual to protect myself, if there was possibly any legal help I could probably get if I needed it; I wasn't in any position at that time to require legal help and I wasn't interested in it and I asked if Mr. Stouvenel had any information about it and he told me the assistance was available to me if I desired it.

Q. What assistance did he explain was available to you?

A. He explained that the Brotherhood of Railroad Trainmen, our local union has an affiliation with a Legal Aid Department and they specifically do nothing but handle accident cases and such injury cases resulting from an injury while they are on duty on the railroad.

Q. Did he tell you who the attorneys were or where they were located?

A. He told me that they were in Minneapolis and claimed they had the authority from the Brotherhood of Railroad Trainmen to give legal assistance to any one that requested it. He told me their name was Jaeger & Jaeger of Minneapolis where they were from; it was up to me to decide whether I wanted to see them or didn't.

Q. Did he explain the work this law firm had done for other railroad employees that had been hurt?

A. Well, of course, they mentioned the fact that they [fol. 532] do have quite a few cases, just like any other business I imagine.

Q. Did he explain any of the cases to you about boys being hurt?

A. No, he never explained any direct cases to me.

Q. Did he tell you of their service?

A. Yes, he explained,—Mr. Stouvenel never,—this I am thinking about Jaeger & Jaeger; you are still on Mr. Stouvenel?

Q. Yes.

A. I was,—I am losing track; I was considering myself way up in Minneapolis so we should go back because Mr. Stouvenel didn't tell me some of the things I have been saying in the past.

Mr. McCarthy: Explain that; that is proper for the record. There might be a misconception in the record as far as what Mr. Stouvenel said.

A. I wasn't following you.

Q. What did Mr. Stouvenel explain to you about the Jaeger firm?

Mr. McCarthy: Just for the record, you mentioned that you put in, you made a few comments that were not what Mr. Stouvenel said.

Q. If you have made any misstatements in the record, please correct them now.

[fol. 533] A. Well, the only thing I can truly say Mr. Stouvenel told me the name of the law firm and where it was at; Mr. Stouvenel personally did not tell me of any other cases these people had handled or the amount they

received; that was not involved with Mr. Stouvenel. He told me who the lawyers were and they were available to me if I wanted them. Anything other than what is in the testimony he had nothing to do with.

Q. Did he explain Mr. Jaeger of the law firm's relation with the legal aid association for the Brotherhood of Railroad Trainmen, did he explain the connection of this law firm with the Brotherhood?

A. As I stated prior, Mr. Stouvenel claimed they were affiliated with the Brotherhood of Railroad Trainmen, and they acknowledged them as our Legal Aid Department and any injured railroad person who wanted legal aid these lawyers were available to them, that was it.

Q. Did he explain to you what they would do for you, how they would handle the case?

A. No.

Q. What their fee arrangement would be?

A. No, that is—no, he didn't tell me what any of my costs would be.

Q. Did he explain to you what the Jaeger fee would be?

A. No, I don't believe so because I don't think Mr. Stouvenel had any way of knowing that.

[fol. 534] Q. Did he explain to you that he had other contacts with the Jaeger firm and helped other boys and men that were injured?

A. No.

Mr. McCarthy: The answer was no?

A. I am thinking.

Mr. McCarthy: I didn't mean to interpret.

A. He told me he knew of other cases that had legal aid.

Q. Did he say he had helped them, had recommended this firm? I will ask you whether or not Mr. Stouvenel made the statement to you that this law firm would have you treated by legal aid doctors in Minneapolis?

A. Well, I don't know if he phrased it exactly like that; he told me that the, in order to, if I would decide to have legal aid that the Legal Aid Department would have doctors get an examination on me; he also told me my injuries, to

make sure that there was no conflict in the medical reports from the railroad doctors and the legal aid doctors.

Q. State whether or not Mr. Stouvenel said that the union would provide your expenses to Minneapolis, would pay for your expenses and pay for the doctors and pay for the hotel bill and various examinations?

A. That was mentioned after I decided to achieve legal aid; my expenses were incurred by the Legal Aid Department.

Q. Did he say who would pay your expenses to Minneapolis and pay for the examination?

[fol. 535] A. Well, it was the Legal Aid Department of the Brotherhood of Railroad Trainmen; that is the way it was put to me.

Q. State whether or not Mr. Stouvenel mentioned to you that you might obtain a loan?

Mr. McCarthy: I am going to object to this question. State whether or not you are reading from some statement I assume was taken by the Claim Agent, Mr. Scanlan, who represented himself as representing the Clinton County Bar Association, are you reading from a statement given by this man; that apparently is what you are taking all your questions from?

Mr. Johnson: Please make your objections and let's not argue.

Mr. McCarthy: We are objecting and asking you a question; are you reading from that?

Mr. Johnson: Of course not; I have my own notes.

Mr. McCarthy: You are reading from a statement taken by Mr. Scanlan claiming to be from your Bar Association.

(Reporter reads last question.)

A. I don't recall now of him making any such statement to that effect.

Q. Would you say that no statement was made at all concerning the fact you might obtain a loan for your trip to [fol. 536] Minneapolis and to enable you to pay for the examinations and other expenses pending the outcome of your case?

A. I don't recall of any, no, because these were pretty mixed up days for me; I was in the hospital; my wife was having a hard time, she was six or seven months pregnant; things were pretty rough; it was touch and go to look back on it now; the time that elapsed; it is pretty hard to think of everything.

Q. Did Mr. Stouvenel make any statement to you with reference to how you would get to Minneapolis, how you would meet these lawyers?

A. Well, he stated that the Legal Aid Department was incurring the expenses, supplying it; I figured my union dues entitled me to some help to that; I was paying in pretty good union dues every month.

Q. Did some one else other than Mr. Stouvenel explain to you the procedure concerning the application for a loan pending the settlement of your case?

A. Well, I received a loan but not from the lawyers themselves. I received a loan from the bank.

Q. While you were in the hospital you have no recollection now that any one mentioned to you that you could get a loan?

A. You mean while I was in the hospital?

Q. Yes.

[fol. 537] A. No, I don't recall anybody telling me how I could get money while I was in the hospital; at the time I was getting my unemployment, making application for my unemployment compensation and sickness benefits I don't recall anybody telling me how I could get money; all I can refer to, that I can remember in my mind at the time I was in the hospital I had Mr. Stouvenel come up, I asked him how I could go about getting legal aid, whether I was entitled to it and he explained that to me, how I could get money; I have no recollection of any conversation along those lines; his visits were very short.

Q. Did he also call at your home?

A. Well, he stopped out there a few times to see how I was recovering; he was concerned about my welfare.

Q. How many times would you say he called at your room at the hospital?

A. No more than two or three times; probably twice after the first visit.

Q. How many times did he call at your home?

A. Just twice I think.

Q. Was that before you made your trip to Minneapolis?

A. No, I think it was probably after I had gone to Minneapolis; I don't recall now; it is quite a bit of time.

Q. Now, you did make a trip to Minneapolis, didn't you?

A. Yes, I did.

[fol. 538] Q. Who accompanied you to Minneapolis?

A. I asked Mr. Stouvenel to go along with me due to the fact that he was President of our local union; I wanted someone here to try to lean on; I wasn't too sure of what I was doing; I was quite apprehensive and he being President of the union I felt he was in better position to know right from wrong and keep me from doing anything I might regret later on.

Q. What day did you go to Minneapolis the first time?

A. I think it was in December, about the 14th, 13th or 15th, somewhere around in there; the early part of December, the first or second week.

Q. Did any one else accompany you and Mr. Stouvenel?

A. No, just he and myself.

Q. And who paid for your expenses on this trip?

A. Well, I understood the Legal Aid Department did.

Q. I take it Mr. Stouvenel representing the Legal Aid Department did personally pay your expenses?

Mr. McCarthy: That is a misstatement of fact, what you take is something that is immaterial; the question is who paid your expenses, not what you take.

Q. Do you know who paid for the expenses?

A. As far as I know the Legal Aid Department.

Mr. McCarthy: As far as Mr. Stouvenel, do you know anything about that?

[fol. 539] A. No.

Q. I will ask you this; the person that actually paid the cash was not yourself, it was Mr. Stouvenel, irregardless of where the funds came from, he is the man that paid for the expenses, is that true?

Mr. McCarthy: That is an objectionable question but—

Q. Just state the facts.

A. I never had anything to do with it; everything was taken care of.

Mr. McCarthy: I think we should go into that question whether Mr. Stouvenel paid anything.

Q. I wanted you to just state the facts, the way they happened and I don't ask you to make some statement you are not acquainted with; who actually paid, the person that was there, what person paid them; I am not asking you the source of the money.

A. Well, the tickets, I don't know who bought those; I imagine the Legal Aid Department; we had a light lunch on the train; Mr. Stouvenel paid for that; I suggested I pay for it and he said no, this was on he.

Q. Did you stay overnight?

A. Yes, I did.

Q. Where did you stay?

A. At the Sheraton Hotel, Minneapolis.

[fol. 540] Q. Who paid your expenses there, if you know?

A. That was all taken care of by the Legal Aid Department; I know there was no cash transactions that I saw.

Q. When did you meet with Mr. Jaeger?

A. Well, I got up there in Minneapolis pretty late in the evening, then I met him next morning after staying at the hotel all night.

Q. Which member of the firm did you talk with?

A. I met Mr. Carl Jaeger.

Q. And will you please state whether or not he explained to you the arrangement for the case, how he would handle it?

A. Well, he didn't give me too much information on what he would do on the first meeting; he wasn't too sure that he was interested in defending my case himself. He explained it was too hard to determine whether there was going to be anything again between myself and him until after he had received the full medical report on my injury; he had to determine in his mind whether my injuries were great enough to justify legal assistance and not too much was said until after I was examined by the doctor.

Q. And then when were you examined by the doctor?

A. Well, I believe it was that same afternoon he made an appointment on the 'phone while I was in the office and he asked if I could get to the doctor's office and it was O. K. [fol. 541] so I went over to the doctor's that afternoon and had my medical examination.

Q. What is the name of the doctor?

A. Doctor Goldner.

Q. Do you know where his office is located?

A. It is in Minneapolis.

Q. You wouldn't know the building?

A. No, just half a block from where I was at.

Q. When did you then next see Mr. Jaeger?

A. I don't believe I saw him again for probably a month or so.

Q. Did you go back to the law firm, the office of the law firm after the examination by the doctor?

A. Yes, yes I did; I went back after the examination; he just explained to me that he, of course it would take time to get the medical examination report back; there wasn't much we could do until after we received that before we could determine whether my injuries, what my injuries were.

Q. Did he explain to you then with regard to the fee arrangements; arrangements for his fees?

A. Well, he explained to me basically.

Q. Please state what was said?

A. Well, he explained to me if I wanted the Legal Aid Department to handle the case, what would be done or might be had as far as protecting myself; he explained to me my [fol. 542] share of the, what my expense of their services would be and if that was agreeable with me as an individual, fine; the choice was basically mine and mine alone; I didn't sign up when I went up and met him the first time.

Q. What did he say the fees would be and what the arrangements would be for your particular case?

A. Well, he stated that the Legal Aid Department would handle my expenses and time that I lost, any examination I had by doctors were paid for by the Legal Aid Department and that was primarily the obligation of the Legal Aid Department.

Q. State whether or not any reference was made at this visit with regard to a loan that you might make to tide you over while the case was pending?

A. I told him that I would—

Mr. McCarthy: You can answer that yes or no; say yes or no. That is the question; was any reference made to it at the time of this visit?

Mr. Johnson: This is my witness; I would appreciate it if you would not coach him.

Mr. McCarthy: I am just asking him to answer the question yes or no.

Mr. Johnson: He is answering the questions properly; he is an intelligent young man.

Q. Withdraw the question. Kenneth, please state whether or not you made a loan from anybody subsequent to the [fol. 543] time of your accident to tide you over pending your final settlement of your case?

A. I received a loan through the Marquette Bank of Minneapolis.

Q. When did you make that loan?

A. I don't recall the exact date.

Q. State whether or not it was before or after you visited with Mr. Stouvenel in Clinton?

A. I never received any loans from the bank until after I had talked to them in Minneapolis myself; Mr. Stouvenel didn't have anything to do with the loan.

Q. Who first suggested to you you might obtain a loan?

A. I believe Mr. Jaeger told me the Marquette Bank would probably O. K. a loan if I wanted to go over and see them about it; I don't recall just how it was said, but I know I talked to the Marquette Bank and they arranged for me to get a loan; that was it.

Q. State whether or not any reference was made that you would pay the interest, how the loan would be repaid?

A. I don't recall right now.

Q. Who accompanied you to the bank?

A. Well, nobody accompanied me. Mr. Jaeger gave me a card of introduction and I went over there and introduced myself and talked with them for a while and I received it;

I explained to them I would be paying it back myself from [fol. 544] the money I received.

Q. State whether or not you obtained a loan from this bank and if so the amount?

A. Well, I got a \$1,300 loan from the bank; I know that.

Q. Was that made in more than one installment?

A. Yes, I think I got several but it totalled up to \$1,300.00.

Q. How did you obtain this loan, these various loans; did you make trips to Minneapolis each time you wanted to borrow money?

A. No, I wrote a letter when I needed more.

Q. Who did you write the letter to?

A. To the bank and they sent me a form and I filled it out and they returned the money, the Marquette Bank.

Q. Who send you the form?

A. The Marquette Bank.

Q. Did you write to the bank for these forms?

A. After the initial arrangement was made they gave me several to take along with me which I would send them in whenever I needed money, I sent them to the bank and arrangements were made there and in a few days I got the money I requested.

Q. You did not send them to the Jaeger law firm?

A. No.

Q. Now, I don't believe you stated what the fee arrangement was; what was the fee to be paid?

[fol. 545] A. The Legal Aid Department received 25% of my claim; any settlement I received as their legal fee which I understand is pretty much of a standard procedure with all these cases.

Q. From that 25% state whether or not the Legal Aid Department was to absorb any expenses from their 25%?

A. The medical examinations and my expenses for trips to Minneapolis to have these examinations were to be incurred by the Legal Aid Department.

Q. That was, as I understand it from your statement, that was to be from their 25, or your 75?

A. No, that was out of their 25%.

Q. What about the interest on the loan, who was to pay that?

A. Well, I was; the loan was mine.

Q. Including interest?

A. Yes.

Q. Now, when did you sign a contract with the Jaeger firm?

A. Well, I signed it when I went up there the first time but I told them I, that it wasn't in effect until I got home and had time to think about it for a few days because I wasn't too sure; we made a gentlemen's agreement and shook hands on it; they weren't sure they were going to handle it, not having received the medical report.

Q. Did you receive a check from any one to reimburse [fol. 546] you for your expenses on your several trips to Minneapolis?

A. No.

Q. Did any one reimburse you for any out of pocket expense at any time?

A. No.

Q. Now, did you settle your case with the railroad?

A. Yes, I have.

Q. And how much did you receive by way of your settlement?

A. My case was settled for \$9,000.00; a little better than \$9,000.00.

Q. From that sum state whether or not any items of expense were deducted?

A. Well, the lawyers' fees was deducted and the railroad retirement payment was paid back; my unemployment compensation was paid back to the Railroad Retirement Board. I had received a couple advances from the railroad; I had to pay back that I had received from the Claim Agent, those are pretty much it.

Q. What was the net amount you received if you remember?

A. Oh, I think I received 3,900 and some dollars.

Q. Did any one representing the Brotherhood of Railroad Trainmen talk to you about your appearance here today?

A. Well, I had talked to you, when was it, last Saturday?

Q. Yes.

[fol. 547] A. And I told you then no one had contacted me, which is true. Monday Mr. Jaeger called me from Minneapolis, telling me the deposition would be taken this morning and then I told him I had talked to you; he just said come in here and tell the truth and let it go at that. He said there was nothing to worry about. He thought you were sure of what you were doing and he said he felt that I had nothing to worry about so far as repercussions to myself, which is basically the biggest concern is what happens to me; he assured me over the 'phone I hadn't anything to worry about, just to be here, you hadn't subpoenaed me and there was no legal force put on me to be here this morning. I came here of my own free will; he said that was all right, that was all.

Q. Did anyone else talk to you about it?

A. No, in fact I didn't meet Mr. McCarthy until this morning about a minute before you came in.

Mr. Johnson: That is all.

Examination.

By Mr. McCarthy:

Q. Just a few questions; you speak of the Legal Aid Department; you understood, didn't you, that the attorneys you contacted were attorneys representing the Legal Aid Department, is that correct?

A. Yes.

Mr. Johnson: Object to the question on the grounds [fol. 548] it is leading.

Q. It happens to be cross examination of your witness. You understood that?

A. Yes.

Q. These were attorneys representing your union, is that correct?

A. That is right; that is what I meant to imply.

Q. I knew you meant that but I just wanted to clear it up for the record. Now, as far as any trouble, injury or otherwise the person you contact generally is the head of your local lodge?

A. Some one in an official capacity.

Q. Either the chairman or president?

A. Yes.

Q. You knew Mr. Stouvenel and you had your wife contact him?

A. I didn't know him; I knew who he was; I didn't know him as a person.

Q. You knew he was President?

A. Yes.

Q. You had your wife contact him?

A. I have my wife call him.

Q. He brought up some retirement forms, some sickness benefit forms?

A. Yes.

[fol. 549] Q. As far as loans are concerned the railroad made loans?

A. Yes.

Q. They insisted you pay it back?

A. Yes.

Q. Did they make any loans after you retained a lawyer?

A. No, they didn't.

Q. Now, you were seen, were you not, by a fellow by the name of Scanlan?

A. Yes.

Q. Didn't he tell you he represented the Clinton Bar Association?

A. Yes.

Q. As a matter of fact you found out later he represented the Association of American Railroads?

Mr. Johnson: Object to that question as incompetent, irrelevant and immaterial, leading and suggestive and an improper statement of fact.

Q. Didn't Mr. Scanlan say he was from the Clinton Bar Association?

A. He had an introductory letter and said he was working in association with the Clinton Bar Association.

Q. Did you find out later who he actually represented?

Mr. Johnson: Objected to on the grounds that it is improper.

A. Yes.

[fol. 550] Q. Who did you find out he represented?

Mr. Johnson: Same objection.

A. I was real apprehensive talking to anybody that soon after my injury; he showed me this letter and I called them.

Q. This is a letter from the Clinton Bar Association?

A. Yes, the letter had on the Clinton Bar Association; I wanted to know just what was coming off, whether he was under pressure from the Clinton Bar Association, if I had done something wrong or what; I called him on the 'phone; I think it was either Shaff or Smith, I can't recall.

Q. Shaff was Claim Agent for the Chicago & Northwestern?

A. No.

Q. Shaff?

A. Hultsch is but that had nothing to do with Hultsch. I wanted to know what this letter applied to me as an individual; he explained to me that it was just a letter of introduction and that he was actually a representative of the American Association of Railroads, that was it; if I was willing to give them any testimony I could do so; if I didn't want to that was all right too.

Q. That was after the case was settled?

A. That was after the case was settled.

Q. I noticed a statement has been used while you were being examined; did you give him some kind of a statement?

A. Not exactly a statement; we talked about my case; [fol. 551] he wrote down a few details of our conversation.

Q. This was the Scanlan actually representing the American,—Association of American Railroads?

Mr. Johnson: Objected to as improper.

A. Yes.

Q. There is no question that Mr. Scanlan represented the American Association of Railroads, is there? Is there a question about that? You want a clear record, there is no question about that who Scanlan represents? (Foregoing questions addressed to Mr. Johnson). I am just asking you; is there any question about that?

Mr. Johnson: For the record Mr. Scanlan represented the Clinton County Bar Association while in Clinton making this inquiry at our request; I am a member of the Clinton County Bar Association and I represent the Clinton County Bar Association and I do not represent the American Association of Railroads.

Mr. McCarthy: Mr. Scanlan represents the American Association of Railroads, is there any question about that; he has represented them for years; you know that as well as I do.

Mr. Johnson: Go ahead; finish your examination.

Mr. McCarthy: I am not going to hurry my examination; if we have to adjourn, we will adjourn.

Q. Did this fellow Scanlan represent he was a member [fol. 552] of the Bar Association of Iowa?

A. No, he didn't.

Q. Just represented them, is that right?

A. Yes.

Q. Now, did the railroad charge you interest for the loans they made to you before you hired an attorney?

A. I don't know whether they did or not; everything was presented to me in one lump sum.

Q. Did Mr. Scanlan say anything to you about the propriety of your settlement, whether it was good or bad when he talked to you?

A. Well, he felt that I didn't receive as much out of my settlement as I should have.

Q. He told that to you?

A. He stated something to that effect.

Q. Had you had previous dealings with the railroad as far as settlements is concerned?

A. I had a couple minor accidents that made me a little apprehensive of doing any further dealing of my own with the railroad.

Q. Have they been good or bad?

A. Very bad.

Q. As you said before, you never seen me before?

A. No, I never have.

Q. As far as any loans that were made during your [fol. 553] disability you made those loans through the Na-

tional Bank in Minneapolis, through the Marquette National Bank?

A. Yes sir.

Mr. McCarthy: That is all.

(Deposition concluded.)

[fol. 554] Reporter's Certificate to foregoing transcript (omitted in printing).

[fol. 554a] COMPLAINANT'S EXHIBIT

Clinton, Iowa
September 21, 1960

My name is Kenneth H. Gibson. I reside with my wife and three small children at 1034 9th Ave., South, Clinton, Iowa.

I was formerly employed by the Chicago & Northwestern Railroad as a switchman. I was injured November 19, 1959 while engaged in a switching movement at Clinton, Iowa. I was a member of the Brotherhood of Railroad Trainmen.

Following my injury I was confined in the Jane Lamb Memorial Hospital, Clinton, Iowa. I was under the care and treatment of Dr. J. E. O'Donnell, Clinton, Iowa.

On either the third or fourth day after my injury a Mr. E. A. Stouvenel, Local President for the Brotherhood of Railroad Trainmen called on me at the Hospital. Mr. Stouvenel explained to me about the Legal Aid, Brotherhood of Railroad Trainmen and how the Legal Aid would help me collect damages from the Chicago & Northwestern Railroad and he explained how the Legal Aid would also protect my rights on the Railroad.

Mr. Stouvenel told me that the law firm of Yaeger & Yaeger, Minneapolis, Minnesota were attorneys for the Legal Aid and how the attorneys would have me treated [fol. 554b] and examined by Legal Aid Doctors. Mr. Stouvenel explained to me how the legal aid would pay for the examination and medical treatment given by the Legal Aid Doctors.

Mr. Stouvenel told me that the Yaeger law firm would charge me 25% of whatever amount of money they collected for me. He also told me that the Yaeger firm would arrange for me to borrow money from them while the case was

pending: Mr. Stouvenel explained to me how he would take me to Minneapolis and that all my expenses in connection with the trip would be paid by the Legal Aid.

Sometime around November 25, 1959 I accompanied Mr. Stouvenel to Minneapolis. He took me to see Mr. Carl Yaeger Jr. of the law firm of Yaeger & Yaeger. I discussed my injury with Mr. Yaeger and he sent me to Dr. Meyer Z. Goldner who took several X Rays and made an examination of my injuries. The examination required about a half or three quarters of an hour. Dr. Goldner asked me what treatment I had been receiving from Dr. O'Donnell and [fol. 554c] when I told him he advised me to continue to follow Dr. O'Donnell's advice.

I saw Dr. Goldner on one other occasion but was given only a short examination. I never saw him after the second visit.

After my initial examination by Dr. Goldner I returned to Mr. Yaeger's office. I signed a contract retaining the Yaeger firm. It was arranged through Mr. Yaeger for me to make loans from the Marquette National Bank, Minneapolis, Minn. Mr. Yaeger told me I could repay the bank when my case was settled but that the Yaeger firm would pay the interest.

I made several loans which totaled up to \$1,270. In order to get the loans I would write to the Yaeger firm telling them how much money I needed. The Yaeger firm would then send me papers to sign. I would then return the signed papers to the Yaeger firm and in a few days I would receive a check from the Marquette Bank. When my case was settled I had to pay \$22.57 interest. I complained to Mr. Yaeger that he had orally agreed to pay the interest [fol. 554d] but he denied making such an agreement and since I had nothing in writing I had to pay the interest. That was also true in the case of Doctor Goldner. He charged me \$125.00 which was deducted from my settlement. Mr. Carl Yaeger Jr. had informed me that the Yaeger firm would pay all medical expenses. Mr. Stouvenel told me the Legal Aid would pay for medical examinations.

The expenses for the initial trip to Minneapolis with Mr. Stouvenel which included staying at the Sheraton Hotel was paid by the Yaeger firm.

I made a second trip to Minneapolis sometime about January 17, 1960. I went by myself. I gave Mr. Yager a statement of my expenses for which I later received a check for the full amount. The January trip was when I made the second visit to Dr. Goldner.

My case was settled August 12, 1960. I paid my own expenses for the trip to Minneapolis. I received a settlement of \$9,000. After fees and expenses were deducted I had \$3,909.98 as my share of the settlement. As part of [fol. 554e] the settlement I was required to resign my job as switchman.

I have read the foregoing statement and it is true to the best of my knowledge and belief.

Refused to sign.

Read statement and admitted it was true.

/s/ M. P. SCANLAN

9-21-60

[fol. 555] NOTICE TO TAKE DEPOSITIONS (omitted in printing).

To Brotherhood of Railroad Trainmen:

[fol. 556] [File endorsement omitted]

[fol. 558]

IN THE CHANCERY COURT OF THE CITY OF RICHMOND, VIRGINIA

COMMONWEALTH OF VIRGINIA, ex rel.,
 VIRGINIA STATE BAR, Complainant,

v.

BROTHERHOOD OF RAILROAD TRAINMEN et al., Defendants.

Deposition of Gloria M. Loman—July 6, 1961

BE IT REMEMBERED that, pursuant to Notice, and on Thursday, the 6th day of July, 1961, commencing at the hour of 11:10 o'clock in the morning thereof, at the offices of Messrs. Angell, Adams, Gichnauer & Elder, 200 Bush Street, San Francisco, California, personally appeared before me, Janice Giovanni, a Notary Public in and for the City and County of San Francisco, State of California,

GLORIA M. LOMAN, called as a witness, who, being by me first duly sworn, was thereupon examined and interrogated as hereinafter set forth.

[fol. 559] **APPEARANCES:**

Aubrey R. Bowles, Jr., Esquire, 901 Mutual Building, Richmond 19, Virginia, represented by Messrs. Angell, Adams, Gochnauer & Elder, 200 Bush Street, San Francisco, California, represented by Philip H. Angell, Esquire, appeared on behalf of the complainant; and

Beecher E. Stallard, Esquire, 1223-29 Central National Bank Building, Richmond 19, Virginia, represented by Messrs. Hildebrand, Bills & McLeod, 1212 Broadway, Oakland 12, California, represented by Charles C. McLeod, Esquire, appeared as counsel on behalf of the defendants.

GLORIA M. LOMAN, having been first duly sworn by the Notary Public to tell the truth, the whole truth, and nothing but the truth, testified as follows, to wit:

Examination.

By Mr. Angell:

Q. Will you state your full name?

A. Gloria Loman.

Q. Your address? You are the wife, are you not—

A. Yes.

Q. —of Mr.—

Mr. McLeod: Elmo S.

Mr. Angell: Elmo S.?

Mr. McLeod: That is right.

[fol. 560] Mr. Angell: Yes.

Q. You are the wife of Elmo S. Loman?

A. Yes, I am.

Q. Were you present at a conversation between Mr. Loman and a man who stated he was Mr. Dragmire?

A. Yes, I was.

Q. On or about what date was that?

A. It was around July 6th of 1960.

Q. Could you state at about what time that was?

A. It was between 10:30 and 11:00 in the morning.

Q. Who was present?

A. My husband and myself.

Q. This gentleman who called?

A. Yes. Mr. Dragmire.

Q. Did he say his name was Mr. Dragmire?

A. Yes, he did.

Q. I will show you a photograph here which was offered in connection with this deposition as State of Virginia's Exhibit Number 1, and ask you if that is a picture—

A. Yes. That is Harry Dragmire, or the man that said he was Harry Dragmire.

Q. Were you present at the entire conversation?

A. I had stepped into the kitchen a couple of times during the conversation, and I was probably gone maybe a minute or two each time.

Q. Directing your attention to the conversation at which [fol. 561] you were present and only the conversation at which you heard, would you state as near as you can recall in your own words the substance of what was said there by each of you at that conversation on that date?

A. Well, this Harry Dragmire, well, he was a stranger to me at the time he came to my front door, and he introduced himself as Harry Dragmire and wanted to know if he could see my husband, Elmo Loman.

So I asked him in.

He came in and sat down in the front room and I called my husband out of the bedroom. And when he came in, this Mr. Dragmire, again, introduced himself as Harry Dragmire and he was an investigator with the Hildebrand, Bills & McLeod law firm.

And then him and my husband got to talking, and Mr. Dragmire asked my husband how he was feeling and what the extent of his injury was and how the accident happened.

And as I recall, he told my husband that the Hildebrand firm would handle the case and that the fees would be twenty-five per cent plus the expense, and then—let's see.

Oh, yes. He said that if my husband did sign a contract that he would send him to specialists, and due to the fact that the Southern Pacific Hospital would never release the results of the examinations that they made on my husband after the accident.

And then he also asked us what our monthly obligations [fol. 562] were and we told him they were approximately \$350 a month.

And he told us that—I think the term he used was a lawyers' trust fund—would advance us this \$350 a month until a settlement was made and—let's see.

Q. Was anything said about any contract?

A. Yes, there was. He asked my husband if he would like to sign, and if he would, that he would go down and take pictures immediately of the accident—scene of the accident, as he put it—before Southern Pacific had a chance to clean away all the evidence.

And he pulled some papers out of his pocket. But I didn't read the papers. But it looked like a document of

some type that may have been three or four pages. And the way he implied, it was a contract that he would—that he wanted my husband to sign.

But I didn't read it, so I can't really say for sure that it was, or not.

Q. Did Mr. Dragmire in so many words state that it was a contract?

Mr. McLeod: I think that would be—

The Witness: The implication—

Mr. McLeod: I object to that on the grounds it is leading and also calls for a conclusion.

Mr. Angell: No. Just for the conversation.

Q. The answer is: He did not?

A. He implied. The way it was to me, he implied that it [fol. 563] was a contract and he wanted it signed.

Q. Was there anything he said which led you to the conclusion that he implied it was a contract? That is what I was trying to get at.

When you say "he implied"—

A. When he pulled out the papers and asked him if my husband would like to sign, that to me implied that it was a contract.

Q. Is that what you meant when you said he implied?

A. Yes, yes.

Q. Was anything said that you recall regarding other cases that—

A. Yes. Mr. Dragmire also told us about several of the cases that Hildebrand's firm had settled, and one was a William Cassidy.

And he told us that he had—the Hildebrand firm had gotten \$150,000 in settlement for a William Cassidy. And then there was also a Mr. Lock. I don't know the man's—I can't remember the man's first name.

But he told us he had just gotten a settlement of \$35,000. And also on a Kenneth West, that they had made a settlement of \$32,000 or \$33,000 for a Mr. West, Kenneth West.

And then Mr. Dragmire got up and got ready to leave, and as he did, he told us about an accident that he had been in; that he had been injured on the railroad and he had

received a settlement for them from this railroad. I don't know the name of the company. And he said that due to the [fol. 564] fact that the seriousness of this accident, he wasn't eligible for train service any more and that is how he happened to get into this investigating.

And then he left.

Another thing he did say, too, he told my husband not to sign anything for a Mr. Aguer, I believe it was, because he wouldn't treat him fair.

Q. Did you hear anything said as to—to Mr. Dragmire—as to whether Mr. Rider had sent him?

A. No, I didn't.

Q. Did you see Mr. Dragmire give any cards to your husband?

A. I saw him hand my husband something. But I didn't see the cards, no.

Mr. Angell: I think that is all.

Examination.

By Mr. McLeod:

Q. After introducing himself to your husband, Mrs. Loman, his first questions related to how your husband was feeling?

A. Yes, it was.

Q. And the nature and extent of his injuries, and so on?

A. Yes.

Q. Then he also made inquiry as to how the accident happened?

A. Yes, he did.

Q. Your husband told him, in effect, at that time, or in substance, he was having quite a bit of pain in his back and [fol. 565] also quite a bit of pain going down one leg?

A. Yes, he did.

Q. He told him, generally, how the accident happened; that they ran into this—

A. Meat truck.

Q. Meat truck.

Was there anything stated, as you recall, about the possibility he might have a claim against the meat truck, also, there might be a claim against both the Southern Pacific and the meat truck?

A. No.

Q. When your husband told him about the nature and extent of his injuries, and particularly the severe pain down his leg, was there some conversation, generally, then, about disc injuries and the possibility that it would develop slowly, and your husband might be laid up for some length of time on account of it?

A. Yes. Mr. Dragmire told him that he had seen accidents similar to this where a person did have trouble later on in life.

Q. And he mentioned his own case?

A. Yes, he did; where he had received this serious back injury and he wasn't able to do railroad work any more.

Q. It continued to give him a great deal of trouble through the years, and so on?

A. Yes. And he said he thought the seriousness could—
[fol. 566] Q. Could later on develop?

A. Yes, yes.

Q. In talking about some of the cases, he mentioned a couple of cases like Merle Lock and Kenneth West where they had back injuries that developed up to the point they were able to get the company recoveries mentioned?

A. I don't remember him saying anything about back injuries on West or Lock.

Q. Now, at the time this conversation was had about your monthly obligations, isn't it a fact your husband more or less brought the subject up by saying, "Well, if this is a serious injury and I am going to be out of work for a long time, how am I going to live?"

A. My husband and I talked that over long before that.

Q. Well, didn't your husband bring that question up to Mr. Dragmire about what could be done in the event the injury developed where he was going to be out of work for some time?

A. I don't understand what you mean, sir. Would you please repeat it?

Q. There was a conversation about your monthly obligations being \$350.

A. Yes, there was.

Q. Didn't that conversation, more or less, start by your husband asking, in substance, not the exact words, now, but in substance, something like this: Well, if I am going to be [fol. 567] laid up for a long time and not able to get my wages, how am I going to live and what can be done to help us get some money?

A. We knew he had railroad retirement that would be coming in every month which would be \$200. But I don't remember any statement that my husband brought up about how we were going to live unless he got so much money every month.

Q. You don't remember how the conversation got started?

A. I don't remember how the conversation got started, no.

Q. If I understand you correctly, you told him your monthly obligations were about \$350 per month?

A. Yes.

Q. Was this over and above the \$200 you expected to get from the railroad retirement?

A. No. That was everything.

Q. That would include everything?

A. Everything, yes.

Q. Well, then, there was some talk about, under railroad retirement benefits, your husband would get \$200 a month, or some amount like that?

A. Something like that, yes.

Q. Did Mr. Dragmire then tell you that after you told him, or after he was advised that your monthly obligations would be \$350 a month, that the lawyers or Hildebrand's office would advance \$350 a month in addition to the \$200 and some dollars you were going to—

[fol. 568] A. That is the understanding I had at the time, that he would—that the Hildebrand firm would advance us \$350 per month plus the \$200 that he would get from the railroad retirement.

Now, that was the understanding I had.

Q. In other words, then if your understanding was correct, you were going to get \$200 a month over and above your monthly requirements of \$350?

A. That is what the understanding was I had, yes.

Q. Is it possible, now, Mrs. Loman,—it is possible that the conversation was more to the effect that, "Well, if you

need \$350 a month to live on for your debts and obligations, and so on, and you are going to get \$200 a month from the railroad retirement, then maybe the Hildebrand office could give you the other \$150 a month to make the total payment?"

A. The way I understand it, it was \$350 per month the Hildebrand firm would advance us. Now, that was the understanding I had.

Q. That you had?

A. Yes.

Q. He told you if you decided to turn the case over to the Hildebrand office, the fee would be twenty-five per cent?

A. Plus expenses.

Q. Plus expenses and plus investigation, is that right?

A. Plus expenses. That is the way I understood it.

Q. Now, as far as signing a contract, about all you know is that, in substance, that he said, in effect, that if you [fol. 569] wanted to sign up and if you would sign up, then he could go ahead and make an investigation and take pictures, and so on?

A. And he pulled some papers—

Q. And he had papers in his pocket?

A. Yes. And it looked like it was two or three papers folded up there. I didn't read it, I don't know if it was a contract. But the way he pulled it out and asked my husband to sign, it implied to me that he wanted him to sign a contract right then.

Q. Well, is it possible, looking back on it, that what he pulled out was a regular Brotherhood of Railroad Trainmen questionnaire which asks a lot of questions concerning how the accident happened and the wages, and it is a long form, two pages, and that he wanted the information on that questionnaire?

Could it be that, rather than the fact that it was a contract that he wanted to sign at that time?

A. I can't say if it was, because I didn't read it.

Q. Yes.

Was there, putting your mind back to it—is it possible that, now, that the general tenor and substance of the

conversation was that if you wanted to sign up your case with the Hildebrand office, he would take down all this information on the questionnaire and would have one of the lawyers from the Hildebrand office come and get an official contract?

[fol. 570] A. He didn't mention anything about any of the other lawyers contacting us.

Q. He didn't mention any lawyer at all?

A. No, he didn't, not to my knowledge. Not to my knowledge, he didn't.

Q. Now, prior to Mr. Dragmire coming to your home, had your husband told you that he had, several days previously, gone down to see Stanley Rider, the local chairman of the Brotherhood of Railroad Trainmen?

A. I know he went to the union hall, yes, to inquire about paying his dues or how he would pay them while he was off.

Q. Stanley Rider, you knew, was the local chairman of the Lodge 71?

A. Yes. I know Mr. Rider, yes.

Q. He had visited at your house previously?

A. Yes. He had been at our house once or twice.

Q. You considered him a good friend of yours and your husband's?

A. Yes.

Q. You say that you knew your husband had gone down to see Mr. Rider on his own volition?

A. Yes.

Q. No one had contacted your husband; to your knowledge? No one had called at home or contacted him in any way connected with the Brotherhood of Railroad Trainmen or the Hildebrand office before he went down to see Mr. Rider?

[fol. 571] A. Not that I know of, no.

Q. After he went down to see Mr. Rider, about how many days elapsed before Mr. Dragmire came out to the house?

A. Oh, offhand, I would say maybe two, three days, at the most.

Q. All right. In that interval, did your husband tell you that he had had some conversation with Mr. Rider about his case?

A. No, he didn't.

Q. Did he mention anything about that Mr. Rider had said he would send someone in the Brotherhood of Trainmen out to talk to him about it?

A. Yes. I believe he did say something that Mr. Rider was going to send someone out to the house to talk to him.

Q. All right. Now, do you recall this: Prior to Mr. Dragmire coming to the house and introducing himself, do you remember his telephoning your husband at home and arranging for him to come out to see your husband?

A. I don't know.

Q. You don't know that?

A. No.

Q. You don't remember Mr. Dragmire calling, for instance, that morning before he came out to see if your husband would be at home or not?

A. No.

Q. You don't know whether he did or didn't?

[fol. 572] A. No.

Q. Do you know, Mrs. Loman, of your own knowledge, whether any official of the company or any claims agent had contacted your husband, either in the hospital or at your home, before Mr. Rider—before Mr. Dragmire came out to your house?

A. I don't know if anybody contacted him at the hospital. That I don't know.

But no one came to the house.

Q. Previous—

A. Previous.

Q. —to Mr. Dragmire's coming out?

A. No. Unless I was in the hospital at the time.

Q. You were in the hospital?

A. Yes, having a baby.

Q. Having a baby?

A. Yes.

Q. What was the baby? A boy or a girl?

A. A boy.

Q. Do you know if your husband made a tape recording of the conversation with Mr. Dragmire?

A. That I don't know. He plays around with that thing all the time.

Q. No tape recording was ever played back to you, that you heard of?

A. No, no.

Q. How long had you had the tape recording machine [fol. 573] before this accident?

A. I think we got it in '56 or the first part of '57. Something like that.

Q. You still consider that Mr. Rider is a good friend of yours?

A. Yes, I do.

Q. Has your husband ever consulted Mr. Rider for advice previous to this accident on any questions relating to the Brotherhood of Railroad Trainmen dues or insurance, or anything of that nature?

A. I imagine he has. I couldn't say for sure.

Q. How many occasions that Mr. Rider has been out to your house visiting you socially as a friend before this accident happened?

A. He has been in our house a couple of times, I think.

Q. Have you ever been to his house?

A. No.

Q. Ever attended any social functions together, or anything of that nature?

A. No.

Q. At the time of Mr. Dragmire's visit, neither you nor your husband knew just how long his injuries might incapacitate him?

A. No.

Q. You knew at that time, from what he said and from the way he acted, he was in considerable pain as far as his [fol. 574] back and pain radiating down one of his legs?

A. Yes.

Q. No one, to your knowledge, either Clifton Hildebrand or any lawyer connected with Clifton Hildebrand's office had ever been to your house and contacted your husband in any way, to your knowledge, I guess, at any time right up to the present?

A. To my knowledge, no.

Mr. McLeod: I have no other questions. Thank you very much.

Mr. Angell: No further questions.

It is stipulated between Mr. McLeod and myself for our respective clients that the photograph offered in evidence as State of Virginia's Exhibit Number 1 in connection with this deposition, is a photograph of Mr. Harry Dragmire, and accordingly, the photograph may be withdrawn.

Mr. McLeod: So stipulated.

/s/ GLORIA M. LOMAN

[fol. 575] Notary's certificate (omitted in printing).

[fol. 576] [File endorsement omitted]

[fol. 578]

IN THE CHANCERY COURT OF THE CITY OF RICHMOND, VIRGINIA

COMMONWEALTH OF VIRGINIA, ex rel., Virginia State Bar,
Complainant,

v.

BROTHERHOOD OF RAILROAD TRAINMEN et al., Defendants.

Deposition of Elmo S. Loman—July 6, 1961

Be It Remembered that, pursuant to Notice, attached hereto, and on Thursday, the 6th day of July, 1961, commencing at the hour of 9:30 o'clock in the morning thereof, at the offices of Messrs. Angell, Adams, Gochnauer & Elder, 200 Bush Street, San Francisco, California, personally appeared before me, Janice Giovanni, a Notary Public in and for the City and County of San Francisco, State of California,

ELMO S. LOMAN, called as a witness, who, being by me first duly sworn, was thereupon interrogated and examined as hereinafter set forth.

[fol. 579] APPEARANCES:

Aubrey R. Bowles, Jr., Esquire, 901 Mutual Building, Richmond 19, Virginia, represented by Messrs. Angell, Adams, Gochbauer & Elder, 200 Bush Street, San Francisco, California, represented by Philip H. Angell, Esquire, appeared on behalf of the complainant; and

Beecher E. Stallard, Esquire, 1223-29 Central National Bank Building, Richmond 19, Virginia, represented by Messrs. Hildebrand, Bills & McLeod, 1212 Broadway, Oakland 12, California, represented by Charles C. McLeod, Esquire, appeared as counsel on behalf of the defendants.

Mr. Angell: For the record, this is a proceeding entitled Virginia: In the Chancery Court of the City of Richmond; Commonwealth of Virginia, ex rel., Virginia State Bar, Complainant, versus the Brotherhood of Railroad Trainmen, et al., Defendants.

It is the taking of the deposition of Mr. Elmo S. Loman, L-o-m-a-n, and Gloria, G-l-o-r-i-a, M. Loman.

The appearances here, I guess, you have.

I am Philip H. Angell, Senior, of the San Francisco Bar, and Mr. McLeod—what is your full name?

Mr. McLeod: Charles C. McLeod.

Mr. Angell: —of the Oakland Bar, is attorney for the Brotherhood of Railroad Trainmen and other defendants.

I guess that is correct, isn't it?

[fol. 579a] Mr. McLeod: Appearing only in this deposition.

I understand the attorney for the Brotherhood of Railroad Trainmen is a Mr. Beecher, B-e-e-c-h-e-r, Stallard, S-t-a-l-l-a-r-d, 1223-29 Central National Bank Building, 3rd and Broad Street, Richmond, Virginia, who is officially appearing in the action in Virginia, I understand.

Mr. Angell: In connection with that, I will offer into the record to be included in the deposition, what appears to be a Notice of Taking Deposition signed by the Virginia State Bar, signed by Aubrey R. Bowles, Jr., with an Affidavit of Service on the Brotherhood of Railroad Trainmen.

I will just read it:

"On behalf of the defendant, Brotherhood of Railroad Trainmen, I hereby accept legal and timely service of the foregoing notice to take the depositions of Elmo S. Loman and Gloria M. Loman." Signed: Beecher, B-e-e-c-h-e-r, E. Stallard, S-t-a-l-l-a-r-d, Counsel of Record for the Brotherhood of Railroad Trainmen. Signed in Richmond, Virginia, June 19, 1961.

Mr. McLeod: May I see that?

Mr. Angell: If I had a copy of it, I would give it to you. That is the only one I have.

Mr. McLeod: Off the record for a moment.

(Discussion off the record.)

STIPULATION

Mr. McLeod: For the record it will be stipulated all [fol. 580] objections are reserved save as to the form of the question, but that either Mr. Angell or myself may make any specific objections that we so desire at the time.

Mr. Angell: So stipulated, yes.

Mr. McLeod: Thank you.

Mr. Angell: Now then, getting the preliminary matters out of the way, I am, also, informed that under the Virginia law on depositions, that if the other party to the deposition, the one not taking it, wishes copies of the deposition, they have to be obtained in this manner. I am going to tell you what it is. Then you can guide yourself accordingly. I am only giving it to you as information.

If the Brotherhood wants copies, they must agree to pay one-half of the reporter and notary fee, one-half of the cost of the original deposition and the whole cost of the copies they get.

Now, I don't know what the cost of the reporter and notary would be.

(Discussion off the record.)

Mr. McLeod: We will want to enter into that arrangement. I will want three copies. I want three copies.

Mr. Angell: All right. I will want an original and three copies, an original and two copies for the Virginia Bar, and I never take a deposition unless I keep a copy.

Now, I will start with the examination of the witness.

[fol. 581] ELMO S. LOMAN, having been first duly sworn by the Notary Public to tell the truth, the whole truth, and nothing but the truth, testified as follows, to wit:

Examination.

By Mr. Angell:

Q. Would you state your full name and your address?

A. Elmo Spencer Loman, L-o-m-a-n.

Q. You reside—

A. At 37117 St. Christopher Street, Newark, California.

Q. That is Alameda County in California, is that correct?

A. Yes.

Q. Your occupation?

A. Brakeman.

Q. How long have you been employed as a brakeman?

A. It will be five years tomorrow.

Q. Who is your employer?

A. Southern Pacific Company.

Q. Are you married or single?

A. Married.

Q. Have a family?

A. Yes.

Q. What does it consist of?

A. I have one boy.

Q. And your wife. Now, were you injured in the course of [fol. 582] your employment some time within the last two or three years?

A. June 29, 1960 at 5:13 a.m.

Q. Where was that injury?

A. At South City, San Francisco.

Q. Will you tell us the nature of the injury?

First, tell us the nature of the accident. What was the accident?

A. I was on the train coming from Tracy to San Francisco and we ran into a meat truck.

Q. Where were you at the time?

A. On the head end of the train.

Q. You sustained an injury?

A. Yes.

Q. What did that consist of?

A. When we hit the truck, it threw me to the floor and the water cooler and container fell over and hit me on the back.

Q. Where were you at the time of the injury?

A. On the head end.

Q. The head end?

A. Head end of the train, yes.

Q. But inside?

A. Yes.

Q. Now then, were there any other persons injured in that accident?

A. Yes. The engineer, I understood, had his arm broken in about eight places, and the fireman. I really don't know [fol. 583] how he was hurt or how bad. I don't know how long he was off or anything.

Q. What did you do following the accident?

A. The conductor and other brakeman took me to the Southern Pacific Emergency Hospital in Oakland.

Q. What occurred there?

A. There, in turn, they sent me to the Southern Pacific General Hospital after removing several particles of glass from the hair and ears.

Q. How long were you in the Southern Pacific Hospital in San Francisco? It was San Francisco?

A. Yes, San Francisco.

Q. Just for the record, where is that located?

A. I believe it is 1900 Fell Street.

Q. How long were you in the hospital?

A. Three days.

Q. Following your discharge from the hospital, where did you go?

A. I went— I wasn't discharged until a month later. I had to report back.

Q. Following your leaving?

A. Yes. I was on a leave of absence. I went from the Southern Pacific General Hospital to Oakland and stopped at the Brotherhood of Railroad Trainmen's office on 7th and Pine, I believe it is.

Q. Who did you talk to there, if anyone?

[fol. 584] A. To the local chairman, Stanley Rider.

Q. What date was that; do you recall?

A. I believe that was on the 3rd or 4th. I don't remember for sure. The 3rd, 4th or 5th.

Q. Was Mr. Stanley Rider the only one you talked to at that time?

A. Yes.

Q. How is that Rider spelled?

A. R-i-d-e-r, I believe. Stanley Rider.

Q. Who was present at that time?

A. He was the only one there at the time.

Q. Now, will you state as near as you can recall, the substance of the conversation?

A. I went—

Q. The conversation between you and Mr. Rider.

A. —to ask him about the union dues and the insurance, which I think at the time it was being taken out of my check; how I would pay them while I was off, and should I send them in to him or to the treasury.

And I don't remember exactly what he told me now, but he asked me what I was going to do and about my injuries, and I told him I didn't know yet.

And he asked if it would be all right if he sent someone out to see me. I told him, well, it didn't make any difference to me. That was about it at the time.

Q. Was anything said about your employing a lawyer?

[fol. 585] A. No.

Q. Nothing at all?

A. No, nothing at all.

Q. Did you make any inquiry at that time about employing a lawyer?

A. No, I didn't.

Q. Or having a lawyer represent you?

A. No.

Q. That was about all that was said at that time, is that correct?

A. Yes.

Q. Did Mr. Rider say anything about having someone come out to see you at that conversation?

A. He said he would like to send someone out. He didn't say who it would be or what it was for, or anything.

Q. Now then, did you subsequently have any meeting with anyone with regard to representing you in any capacity in connection with the injury?

A. I hadn't talked to anyone about it up until that time, and then Mr. Harry Dragmire came out to the house to see me. I think that was on the 5th or 6th of July.

Q. Did you know Mr. Dragmire?

A. No. He said he was Harry Dragmire.

Q. I will show you a photograph (handing photograph referred to to the witness through Mr. McLeod), and ask you if you recognize the photograph as being the man who called on you?

[fol. 586] A. Yes, it is.

Mr. Angell: I will offer this in evidence as the Virginia State Bar Exhibit Number 1.

Q. What time of day was this?

A. About 10:30 or 11:00 in the morning.

Q. Who was present?

A. My wife.

Q. Anyone else?

A. No.

Q. Where did you talk with him?

A. In the living room of the house at my home.

Q. Had you heard of Mr. Dragmire or had any conversations with him prior to that time?

A. No, sir.

Q. Now, will you just state in your own words and as near as you can recall, the substance of your conversation with Mr. Dragmire at that time?

What was said by each of you?

A. Well, he come in and wanted to know how I felt, and we talked for a few minutes and he explained to me who he was with and what he could do.

Q. Who did he say he was with?

A. Hildebrand, Bills & McLeod, I believe it was.

Q. Did he state in what capacity?

A. He said he was a regional investigator for the Hildebrand, Bills & McLeod law firm, and also for the Brotherhood of Railroad Trainmen.

Q. Would you give us the full name of that? That is the Brotherhood—

A. Of Railroad Trainmen?

Q. Of Railroad Trainmen?

A. Yes.

Q. All right. Go right ahead.

A. And he asked me if I had thought anything about suing the company, and I told him, "No."

And he said that I could be hurt worse than I was, and that if I would like for the Hildebrand, Bills & McLeod law firm to handle my case for me, I could sign a contract with him and he could get right away on the case and go over and investigate and take pictures of the accident, and so forth.

So I told him at the time that I didn't think I would be interested. I thought I would wait a while and let him know.

He got up to leave at about that time, and as he started out the door, he turned and told me about an injury that he had sustained with some railroad back east. He didn't—to the best of my knowledge, he didn't mention the railroad, or I don't remember if he did mention the name of the railroad.

And he told me that he had gotten \$45,000—\$40,000 or \$45,000 out of this injury and that is how he became [fol. 588] employed with the firm that he was with at the time.

And then he also told me of the other cases that he had handled here in the Bay area of some of the men I knew, and he asked me if I knew them.

Q. Did he mention any names?

A. Yes. He mentioned William Cassidy, and said he got \$150,000 for him, for William Cassidy.

He mentioned a Merle Lock, which he said he had gotten \$33,000 or \$35,000, and a K. P. West, which he had gotten \$30,000, I think, \$32,000.

Mr. McLeod: K. P. West?

The Witness: K. P. West.

He told me that mine should be worth around \$45,000. It could be a lot worse than I thought it was.

Q. Incidentally, was anything said by Mr. Dragmire as to whether Mr. Rider had told him to call on you?

A. Yes. He said that Mr. Rider had sent him out.

Q. Was that conversation was any mention made of the Southern Pacific claims man, Barney Aguer?

A. Well, he told me I should not sign anything for Barney Aguer. He is the claims agent at the Southern Pacific Hospital in San Francisco here.

And I shouldn't even talk to him, and that to sign nothing for him.

And also he told me that he would send me to their own [fol. 589] doctor here in Oakland to be examined which—that I could not depend on the Southern Pacific staff over here of releasing any information about my injuries to anyone if it did go through court. It would be best for him to send me to their own doctor here in Oakland, which they could get a true report from them.

And he advised me, also, I shouldn't sign any papers. And all this time he was stressing to me that I should employ the Hildebrand, Bills & McLeod law firm.

Q. Did Mr. Dragmire at any time ask you to sign a contract?

A. Well, he, in the course of the conversation, he asked me if I would sign, and he pulled some papers from his pocket at that time, which I don't really know whether it was a contract or not, but it led me to believe it was a contract, because he asked me if I would sign with him, and when I told him I thought I had better wait and put it over, he put the papers back.

Q. You didn't see the papers?

A. No, I didn't.

Q. You couldn't, of your own knowledge, testify whether it was or was not a contract?

A. No, sir; I couldn't.

Q. Was anything said about any advances or payment of any money or loan of any money while you were out of work?

A. Yes. I asked him what they would do if I was out of work, how would I live. He said, "Well, you get your [fol. 590] disability insurance which amounts to approxi-

mately \$50 or \$51 a week," and he said, "We will also advance you from the lawyer's trust fund," or something, "to be paid back, on the day of the settlement, of \$350 a month."

He said, "That should be plenty for you to live on."

Q. Do you recall whether anything was said as to whether you should sign anything for Barney Aguer?

A. He told me not to sign anything for Barney Aguer at the Southern Pacific Hospital in San Francisco.

Q. Who is Barney Aguer?

A. He is the claims agent that is located at the Southern Pacific Hospital in San Francisco.

Q. Was anything said as to how much he thought could be gotten for your injuries?

A. He said he thought, if they had my case, they could get me around \$45,000, which I told him at the time I didn't think I was hurt that bad and I had better wait.

Q. Were any cards given to you at that time?

A. Yes. He gave me two cards, one of the Hildebrand, Bills & McLeod office and one of Harry Dragmire.

Q. What did you do with those cards?

A. I gave those cards to, I believe, a Mr. Carter or Mr. Smith.

Q. Now, I think you have already testified to this, but would you state just as near as you can recall what was said about signing a contract with the Hildebrand firm? [fol. 591] A. I told him I didn't think I wanted to sign a contract with the firm at the time, that I would have to wait and think it over.

Q. Had you asked to have Mr. Dragmire sent there by Mr. Rider?

A. No, sir, I didn't.

Q. Had you asked anyone to send any attorney or investigator to you?

A. No, I did not.

Q. Now, in this conversation you had with Mr. Dragmire, did he mention some employee who had been operated on?

A. Yes. He was telling me that there was a person come down from Portland, Oregon. I don't know whether he mentioned the name or not. He was injured and he had

a slipped disc, and it was on the right side and they operated on the left side, I believe he said.

And he said they—the fellow got in touch with him and he took him to his own doctor and they looked the man over and told him, "My God! They operated on the wrong side of you. You have got to go back for another operation."

Q. Was anything said about the amount of the fee?

A. Twenty-five per cent plus expenses. That is what he said they would charge.

Q. Did he say what those expenses would consist of?

A. No, he didn't.

Q. He didn't elaborate on that?

[fol. 592] A. No, he did not.

Q. Was anything said about the railroad, if you settle with them without employing an attorney, that the railroad would cheat you or take advantage of you, or wouldn't make a fair settlement, or any words to that effect?

Mr. McLeod: Pardon me just a moment. I think some of the questions, particularly that one, are quite leading, Mr. Angell.

Mr. Angell: I think maybe you are correct, Mr. McLeod. I will rephrase it.

Mr. McLeod: I object on that ground.

Q. Was any comment or suggestion made by Mr. Dragmire as to what treatment you would receive from the railroad if you attempted to settle directly?

A. Well, he told me that if—if I let the claims agent get to me, and he said, that I wouldn't get a fair settlement. Every settlement they had ever—every case they had ever handled, they had gotten a fair and substantial settlement for their client.

I should be careful not to sign any papers with anyone, as far as the Southern Pacific claims agents, and—

Q. Now, was that substantially all that was said at that time?

A. Yes.

Q. Mr. Dragmire left, isn't that right?

A. Yes, he did.

Q. Now, when did you next hear from Mr. Dragmire, if you did?

[fol. 593] A. On June 29, 1961.

Q. That is the next time you saw him, isn't it?

A. No. Wait. Excuse me.

He called me two or three times after that. I misunderstood you.

Q. Yes. Can you remember approximately—

A. I think he called about the 8th or the 9th.

Q. Of what?

A. Of July. About a week after he come out.

Q. What was said at that time on the phone?

A. He asked how I was feeling and if I had changed my mind, if I had thought about employing the Hildebrand, Bills & McLeod office:

And I told him no. At the time, that I hadn't.

Then he called back again. I think it was on the 25th or 26th, or somewhere along in there. And he asked me, again, if I had thought any more about it.

And I told him, no, that I hadn't.

Then he called me, again, after that, and I told him I had already settled with the railroad. And that was the last time I had heard from him. I told him I had already settled.

Q. Did you, on one occasion, meet Mr. Dragmire out at the Southern Pacific Hospital?

A. I was coming out of the Southern Pacific Hospital and he was going into the Southern Pacific Hospital, and he said [fol. 594] he would like to talk to me, and I told him I was parked where I would have to move the car right away and I didn't have time to talk to him at that time.

Q. About when was that? Do you recall the date?

A. I think it was July 27th or 28th. Somewhere along in there.

Q. Now then, did you subsequently see Mr. Dragmire?

A. You mean the last time I saw him?

Q. Yes.

A. June 29, 1961 in Roseville, California.

Q. What was the occasion of this meeting?

A. Well, he and Stanley Rider came up to see me while

I was working at Roseville, and said, they wanted to talk to me.

And we got in Mr. Rider's car and drove and found the shade. He talked to me, and he said that he understood that I had given a statement to the American Association of Railroads, and I told him I had.

He told me he didn't know what was in the statement, but that whatever I had said, that he would like for me to explain most of it away when I come over to the deposition.

He said he understood I would come over on the deposition, and he wanted to know what days it would be, and I told him the 5th at 2:00 p.m., and also the 6th, which time, on the 6th, it would be given to me on the 5th when I came over.

Q. Did you tell him you were coming over to see me on the 5th?

[fol. 595] A. Yes. I told him I was going over to see the attorney on the 5th, and he also asked me at the time that I should come up to the Hildebrand, Bills & McLeod office and talk to an attorney. He wanted me to be at Mr. Rider's office the 5th at 11:00 a.m. and talk to Mr. McLeod before I came over here.

Q. What did you say in response to that, if anything?

A. I told him I would let him know.

Q. Did you?

A. No, I didn't.

Q. Did you go up to Mr. McLeod's office?

A. No, I didn't.

Q. Or Mr. Hildebrand's office?

A. No, I did not.

Q. Was anything said by Mr. Dragmire as to why he thought you should go up to see someone? Did he mention you see Mr. McLeod specifically?

A. Yes. He said Mr. Hildebrand was in Los Angeles at the time. Mr. McLeod would like to talk to me.

He felt I should have legal counsel, as I was to be over here on the 5th, and he said there would be questions asked of me that I shouldn't have to answer, and I should have legal counsel here on both sides with me.

He said, "They have their counsel and you should have your counsel. I would like to have you ask Mr. McLeod to

go over with you. Furthermore, you can explain away most [fol. 596] of the answers you have given over there," he said, "because you could—when you are asked a question, you can say, well, you didn't see—or you didn't mean to imply that I showed you a contract and I didn't ask you to sign a contract. You can explain most of those answers away."

And he also stated that I would get Mr. Rider in trouble if I did come over and testify, which I told him at the time I didn't mean to hurt anyone. I was just telling what I had heard and what he had told me. And I told him at the time, I said, "Maybe you shouldn't talk to me this way now because you are just telling me more now what I can tell those people over there."

Q. The first time you had seen me was yesterday afternoon, was it not?

A. Yes.

Q. When you went over the conversations which you have testified to here today?

A. Yes, sir.

Q. In that conversation on the 29th of June, 1961, at Roseville, when you were in the automobile, was anything said as to whether you had to come over here or not?

A. At first—

Mr. McLeod: Again, Mr. Angell, I don't like to be objecting. It seems to me you are leading the witness quite a bit, considering he is your witness.

Mr. Angell: All right. I will withdraw it and try to [fol. 597] get at it another way.

Q. In that conversation, did Mr. Dragmire in any way advise you as to—or make any statement with regard to whether you had to appear, either at my office on the 5th, or at this deposition on the 6th?

A. Well, he told me that, at first, if I didn't come over, I could be subpoenaed, which I understood. And then after the conversation went on for thirty-five, forty minutes, he told me I didn't have to appear either day.

I had to appear in the county that I lived in, technically. And I told him I had been ordered over here by the crew

dispatcher of the Southern Pacific Company, and I had an order signed by A. S. McCann.

I also, at the time, asked Mr. Rider, I said, "Is that right? Do I have to appear?", which Mr. Rider didn't answer.

And Mr. Dragmire said, "If I were you, I wouldn't go either day unless they subpoenaed me."

Q. Had you known that you were going to have a meeting at Roseville on June 29, 1961? Had anything been said to you previous to the meeting that Mr. Dragmire and Mr. Rider were going to be there?

A. No, sir.

Q. They just appeared there?

A. Yes, sir.

Q. At that time, is that right?

A. I was eating breakfast in a cafe up there, and one of [fol. 598] the other brakemen—I don't know who. I think it was Mr.—well, I don't remember. He told me Mr. Rider was looking for me. I was eating breakfast and he come in the cafe and sat down and had a cup of coffee with me, and told me he would like to talk with me.

We went outside and went to his car, and Mr. Dragmire was there.

Q. In that conversation was there anything said by any of the parties there with regard to whether Mr. Dragmire had asked you to sign a contract with the Hildebrand firm at your meeting at your home on July 6, 1961?

Mr. McLeod: I will object to that, again, as leading.

Q. Go ahead and answer that.

A. Well, he said he showed me a questionnaire, which at the time he pulled something out of his briefcase, which he had his briefcase with him at the time, and handed it toward me at the time, and said, "This is what I had with me, was a questionnaire."

He took it back and I didn't get a chance to read it. I didn't get a chance to see the paper the first time. I didn't get a chance to see the paper the second time. So I can't say whether it was the same or not.

Mr. Angell: I think that is all.

Examination.

By Mr. McLeod:

Q. Mr. Loman, in this accident that you mentioned, you [fol. 599] said your train ran into a meat truck.

A. Yes.

Q. At a crossing?

A. Yes, in South San Francisco.

Q. After being taken to the emergency hospital in Oakland, you were then taken to the Southern Pacific General Hospital in San Francisco?

A. That is right; yes, sir.

Q. You were there for some three days, right?

A. Yes, sir.

Q. During that time that elapsed, that three- or four-day period up to the time you left the Southern Pacific General Hospital, did you talk to any claim agent or anyone connected with the Southern Pacific about your accident?

A. No, sir, I did not.

Q. Anyone contact you? Mr. Aguer or anyone else contact you?

A. No one contacted me at all.

Q. Either at the emergency hospital in Oakland or during the first three days in the Southern Pacific Hospital in San Francisco?

A. No, sir.

Q. By no one, you mean no claim agent, no official from the company, no one connected with the Southern Pacific?

A. No one. No one.

Q. All right. Then when you left the Southern Pacific [fol. 600] Hospital on the third day, you were returning home to Newark, were you?

A. Yes.

Q. At that time you went down to the Brotherhood of Railroad Trainmen office on 7th Street?

A. Not that day. I think it was the 4th or 5th I went down there about my union dues. Not directly from the hospital.

Q. I understood you to say you stopped at the Brotherhood of Railroad Trainmen office.

A. It wasn't that day.

Q. You went home?

A. Yes. I was taken home.

Q. Who took you home?

A. Harold E. Wood. He is a brakeman for Southern Pacific. He come and picked me up.

Q. How many days were you home before you went down to the—

A. I think it was the second or third day. I don't remember for sure. Either the 5th or the 6th. I am not for sure.

Q. During that interval, had anyone from the Southern Pacific contacted you?

A. No, sir.

Q. Either by telephone or otherwise?

A. No, sir.

Q. Then within a couple of days after you got home, you came in by yourself to the Brotherhood of Railroad Trainmen office on 7th Street, right?

A. Harold E. Wood brought me in.

[fol. 601] Q. Harold E. Wood?

A. Yes, sir.

Q. Is Harold E. Wood any official of the Brotherhood of Railroad Trainmen, do you know?

A. No. He is a neighbor of mine. We work together quite a bit.

Q. During that interval before you went into the Brotherhood of Railroad Trainmen office on 7th Street, had you and Mr. Wood talked about your claim or who your case might be against, or anything of that nature?

A. No, sir.

Q. Had you talked to anyone at all or made any inquiry from anyone as to what your rights were or whether you had a claim against the Southern Pacific or the meat truck that was involved in the accident?

A. No, sir.

Q. You had no conversation along that line with anyone?

A. No, sir.

Q. All right. Then two or three days after you got home, you went in to see Mr. Rider at the Brotherhood of Railroad Trainmen office?

A. Yes.

Q. That office is located and was located at that time on 1833 7th Street, was it not?

A. That is where it is now. I don't know the address.

Q. Mr. Rider was the local chairman of the Brotherhood [fol. 602] of Railroad Trainmen, Lodge No. 71?

You were a member of the Lodge, is that correct?

A. That is correct.

Q. How long had you been a member of the lodge before the accident?

A. Ever since I have been here, and that was about four years.

Q. You knew Mr. Rider during that four years?

A. Yes.

Q. Working for the Southern Pacific?

A. Yes.

Q. You paid dues to him from time to time and had chatted with him, I presume, from time to time?

A. Yes, sir. Yes, sir. Very good friends.

Q. He was a very good friend of yours?

A. Yes, sir.

Q. Up to that time, neither Mr. Rider, Mr. Dragmire or anyone connected with the Brotherhood of Railroad Trainmen, had contacted you about your case?

A. No, sir. I didn't think Mr. Rider even knew I was injured, because he acted surprised, to me, when I went in and told him I had been—

Mr. McLeod: I will ask that go out as a conclusion of the witness.

Q. At any rate, no one had contacted you, neither Mr. Rider, Dragmire or anyone connected with the Brotherhood [fol. 603] of Railroad Trainmen or its legal aid department, had contacted you before you went in to see Mr. Rider?

A. No, sir.

Q. On that occasion you told Mr. Rider what had happened, the nature of the accident, did you not?

A. I told him I was in an accident at South City, San Francisco, and he asked me what happened, and I told him.

Q. You told him a meat truck had run into the train at a crossing?

A. Yes.

Q. Who owned the meat truck?

A. Armour Company.

Q. Had you been contacted by Armour Company or any insurance adjuster up to that time?

A. No.

Q. Having gone in to see Mr. Rider on your own volition, there was some discussion about how your accident happened?

A. No, I wasn't there long enough for a discussion. I wasn't there over five or ten minutes.

Q. It was brought up that the train had run into a meat truck?

A. Yes.

Q. Was there anything said, you had a claim, possible claim, against the meat truck for their part of the case?

A. No, sir, there wasn't.

Q. Was there any question in your mind at that time [fol. 604] against whom you should make a claim?

A. No, sir. Excuse me, now. Will you repeat the question? I might not have understood you.

Q. Up to that time, had you had any discussion with anyone as to whether your claim was against the Southern Pacific or the meat truck involved in the collision?

A. No, sir.

Q. Was there anything said by Mr. Rider during your conversation with him that you might have a claim against either one or both?

A. No, sir.

Q. By that I mean the Southern Pacific or the meat truck.

A. No, sir.

Q. At that time you had some general conversation with Mr. Rider about how the accident happened, I take it?

A. He asked me what happened, and I told him we hit a meat truck in South City, San Francisco. And he acted surprised. And I asked him about the union dues and the insurance, the insurance payments.

Q. Incidentally, what injuries had you received in that accident?

A. Well, I think I just strained my back, is all.

Q. Was your back giving you some difficulty at the time you went in to see Mr. Rider?

A. Yes: My left leg was giving me quite a bit of difficulty.

Q. You had pain in your back and radiating pain down [fol. 605] into the left leg, right?

A. Yes.

Q. At that time, then, Mr. Rider asked you if you wanted to see some representative of the legal aid department of the Brotherhood of Railroad Trainmen, did he not?

A. No, he didn't. He asked me if it would be all right if he sent someone out to see me. He didn't say who; Brotherhood of Railroad Trainmen, someone from the Lodge, or what. He said, "Would it be all right?"

Q. Didn't you understand that Mr. Rider was referring to some investigator or member of the legal aid department of the Brotherhood of Railroad Trainmen?

A. He didn't tell me who it would be, so I had no idea who it would be.

Q. You didn't expect at that time that Mr. Rider would be sending a claims agent from the Southern Pacific out to see you, did you?

A. I don't know what to expect. At the time he told me, I wasn't too interested in talking to anyone, I don't imagine.

Q. Was there any discussion with Mr. Rider about the fact that you were having pain down your leg as well as in your back?

A. No. He asked me no questions, I remember, about how bad I was hurt or if I—

Q. But he was a good friend of yours at that time, right?

A. Yes, sir.

[fol. 606] Q. Your best recollection now is that he merely asked you if it would be all right if he would send someone out to see you to talk to you about your case and your injuries, is that right?

A. Yes.

Q. Now, isn't it a fact that before Mr. Dragmire came out to see you that he telephoned you at your home?

A. I don't remember whether he called or not. He could have. I really don't remember.

Q. He could have? You don't remember, but he could have telephoned you at your home before he came out to see you?

Mr. Angell: Who is "he"?

Mr. McLeod: Mr. Dragmire.

A. I don't remember. He may have called and said he was coming, or not. I really don't remember.

Q. When you had this conversation with Mr. Dragmire and Mr. Rider within the last few days, didn't you at that time tell them you remembered Mr. Dragmire had called at your home?

By "had called," I mean had telephoned you before he came out to see you?

A. They asked the same question you asked me, and I told him I didn't remember whether he called or not. I said, "You could have called."

Q. Were you surprised when Mr. Dragmire arrived at your house?

[fol. 607] A. I didn't know who the man was when he did come in. He told me who he was with. And it never hurts to talk to anyone, I don't guess.

Q. You knew he was coming on the very day he was coming, did you not?

A. No, sir, I didn't. Not that I remember. He might have called. Let's put it that way. I don't remember whether he did call before he came out or he didn't.

Q. Well, you told them that, in this conversation within the last few days, that you made a tape recording of the conversation with Mr. Dragmire, did you not?

A. I told Mr. Rider that, yes.

Q. You told them that within the last few days?

A. Yes, sir.

Q. Isn't it a fact, then, that you knew he was coming and you had it set up, that you would have a tape recording ready to take down any and all conversation with them?

A. I make a tape recording of everybody who comes to the house, even if you come out.

I told Mr. Rider one time he was there to visit me, I made a tape recording of him.

Q. Did you tell him that before? When did you tell him that?

A. On June 29th of this year.

Q. Prior to Mr. Dragmire's coming out to your house, had you talked to any of the officials of the Southern Pacific Company about the possibility of them coming?

[fol. 608] A. I didn't understand that question.

Q. Prior to Mr. Dragmire coming out to your house, had you talked to any of the officials of the Southern Pacific Company about the possibility of Mr. Dragmire coming to your house?

A. No, sir. I didn't even know Mr. Dragmire before he came out to the house. The name wasn't familiar to me.

Q. Prior to his coming there, had you talked to any of the officials of the Southern Pacific Company about your conversation with Mr. Rider and that Mr. Rider was going to send someone out to see you?

A. No, sir.

Q. You are on quite friendly terms with several of the officials of the Southern Pacific Company, are you not?

A. Well, if you say "several"—I know about three trainmasters and two or three of the assistant trainmasters.

Q. You do some extra work selling cars from time to time, do you not?

A. Yes, sir.

Q. You have sold cars, or at least, one car, to one of the trainmasters?

A. Two of them.

Q. Was this before your accident or after?

A. Before, yes, sir.

Q. You say you didn't call any of—either one of the trainmasters, or any official of the company, and advise [fol. 609] them that Mr. Rider of the Brotherhood of Railroad Trainmen was sending someone out to see you?

A. No, sir. Mr. Rider didn't tell me who he was sending out, so I didn't know who he was sending.

Q. But you did have the tape recorder set up so that as soon as Mr. Dragmire introduced himself, everything that he said and you said was taken down on a tape, is that right?

A. No. I didn't have it set up. It is sitting in the living room, which, if I wanted to turn it on, all I have to do is flip the light switch.

Q. You flipped the light switch immediately on his arrival, did you not?

A. I wouldn't be a bit surprised if it isn't on right now.

Q. The question is: Did you?

A. No, sir. I don't know. I don't know whether I have a tape recording of his conversation or not.

Q. You don't know that now?

A. No, sir. In fact, I don't think I have a tape recording of his conversation.

Q. Didn't you tell these gentlemen within the last few days that you took the tape recording of the conversation and turned it over to the representative of the American Association of Railroads?

A. No, sir, I did not.

Q. Now, you say you don't know whether you have one or not?

A. That is correct.

[fol. 610] Q. Did you ever play it back after his visit to your house?

A. No, sir.

Q. Was any mention of a tape recording made during this last conversation you had with Mr. Rider and Mr. Dragmire?

A. Yes, sir, there was.

Q. Who brought it up? You, or either one of those gentlemen? Who mentioned it, originally, in that conversation?

A. I think that I did. Something was brought out—he said, “Well, I didn't ask you to sign a contract.”

I said, “Oh, yes, you did.”

And he said, “Well, I know I didn't.”

I said, “Well, you would know your own voice?”

And he said, "That is correct."

And I said, "I am pretty sure I have it down on tape."

And he says, "What do you mean, you have it down on tape?"

And I said, "I am almost certain I have your voice on tape at the time you were out there."

At the time, Rider said—well, the conversation between the two of them—one would start to say something and the other would put in—

I told Mr. Rider at the time, I wouldn't be a bit surprised if I wouldn't have your conversation down.

Q. You are referring to before the accident?

A. Yes, sir.

Q. Mr. Rider had visited you socially at home?

[fol. 611] A. Yes, sir.

Q. You have never played it back, to your knowledge, for yourself or someone else?

A. No.

Q. You don't know whether the thing exists, is that correct?

A. That is correct.

Q. What do you do, clean off the tapes every once in a while?

A. Yes, sir.

Mr. McLeod: Off the record.

(Discussion off the record.)

Q. Well, Mr. Dragmire, then, when he arrived at your house, wanted to know how you were feeling?

A. Yes, sir.

Q. You told him about the pain in your back and the pain radiating down your leg?

A. Yes, sir.

Q. At that time your back and leg were giving you considerable difficulty, were they not?

A. Yes, sir.

Q. Did Mr. Dragmire at that time tell you he was the regional investigator for the Brotherhood of Railroad Trainmen?

A. Yes, sir, he did.

Q. He was the man that Mr. Rider had sent out to talk to you?

A. Yes, sir, he did. That is right.

Q. Take it from what you said, he also told you at that [fol. 612] time he was employed by the office of Hildebrand, Bills & McLeod?

A. Yes, sir, he did.

Q. Did he tell you Mr. Hildebrand was the regional counsel for the Brotherhood of Railroad Trainmen?

A. I believe he did. I believe he said they represented the Brotherhood of Railroad Trainmen.

Q. Had you heard of Mr. Hildebrand before?

A. No, sir, not—I had heard he was an attorney for the Brotherhood of Railroad Trainmen, but never heard about him in the cases he had settled or had any dealings with, or anything.

Q. If I have made my notes correctly, after he talked to you about your back and the pain going down your leg, he said, generally, that that type of injury might turn into a serious injury, you could have been hurt worse than appeared at the moment?

A. Yes, that is right.

Q. In the course of the conversation, he mentioned some other gentlemen who had had disc problems, and told you how serious a thing like that could turn out, is that correct?

A. Yes, sir, he did. He told me about himself, too.

Q. He told you that he himself, while employed for a railroad, had injured his back and had a ruptured disc, and so on?

A. He said a back injury. I don't recall him saying a [fol. 613] ruptured disc, or anything like that.

Q. Did he tell you it had given him trouble for some years?

A. He said that is why he doesn't work for the railroad now.

Q. Now, as far as this contract is concerned, you say that during the course of the conversation he pulled some papers out of his pocket?

A. That is right.

Q. As you recall, the papers he pulled out consisted of three or four pages?

A. Yes, sir. They were folded up, yes.

Q. Folded up. And they appeared to have questions and answers? Could you tell?

A. I didn't get a chance to see them. He was sitting completely across the room. I couldn't say they were a contract or—

Q. Did he at any time during his conversation with you about how the accident happened, and so on, mention that you might have a claim against both the railroad and the trucking company?

A. No, sir. I don't think so.

He asked me who was at fault. I think he did. I am not for sure. He asked me how the accident happened, and I told him. And he said, "Well, it looks like the Southern Pacific Company is at fault."

I said, "I think so, too."

I really don't know. But, I mean, discussing both [fol. 614] parties, why, I don't think that was ever brought up.

Q. Incidentally, so we will get the picture a little clear, just how did this accident happen? All you have told us is that the train ran into a meat truck on the crossing.

A. The way I understand, we were going 45, 50 miles an hour.

Mr. Angell: Just a minute. Did you see the accident?

The Witness: I was looking out of the window when I heard the engineer start whistling, and I turned around and looked. We almost hit a butane truck. The crossing watchman hadn't closed the gates.

Q. It is a crossing protected by gates?

A. Yes, and a tower there.

I seen the butane truck go by, and that is the last thing I knew before we were another seven or eight hundred yards down the road there, getting up off of the floor of the engine.

Q. You did hear the collision between the engine and the meat truck, which apparently was behind the butane truck, is that right?

A. Yes. And I am sure glad about that, too.

Q. You knew that is what you collided with?

A. I didn't know at the time that is what it was. But there was bacon, turkeys, and everything else, in the engine.

Q. All right. Then you say that after he inquired, generally, as to your condition and if you wanted some advice or representation from the Trainmen, and you told him no, [fol. 615] that you didn't think it was—

A. He didn't mention the Trainmen, the way I understand it.

He said the Hildebrand, Bills & McLeod, the law firm of Hildebrand, Bills & McLeod, which he was an investigator for them, and also the regional investigator for the Brotherhood of Railroad Trainmen.

Q. Well, whatever the conversation was, you told him, in effect, that no, you didn't feel at the time—

A. At the time, yes.

Q. You would consider that, and you wanted to wait and see how you got along?

A. Yes.

Q. With that, he got up to leave. But then, as he was leaving, he told you about his own accident?

A. Yes, sir.

Q. His own back injury, and he was still suffering some effects of it to the point where he was no longer able to work for the railroad?

A. That is correct, yes.

Q. Then he mentioned several other men, members of the Brotherhood of Railroad Trainmen, whom you knew, is that correct?

A. Well, two of them I knew, yes. But one, I know of.

Q. You knew Cassidy, did you?

A. I knew of him. I didn't know him personally, no.

Q. You knew Merle Lock?

[fol. 616] A. Yes, I know him.

Q. And K. P. West?

A. Yes, sir.

Q. Mr. Dragmire told you our office, as regional counsel for the Trainmen, had handled their cases?

A. Yes. He told me they had handled the cases.

Q. There is no question, he told you during the course of the conversation, Mr. Rider had sent him out to see you?

A. Well, I—he told me that Stanley Rider had sent him out to see me, yes.

Q. Now, you say that he mentioned something about the value of your case, and you mentioned the words \$45,000.

A. Yes, sir.

Q. Didn't he, in effect, tell you that if your injuries developed to the point that you might have a disc, that the symptoms in your leg would get worse and you might have a disc, or disc might develop, and an operation might be necessary, then in that event, depending on how serious it was and how long you were off work, your case might be worth up to \$45,000?

A. He told me a case like mine, that they usually could get around \$45,000 for.

He said, "You could be hurt worse than you think you are."

Q. If an injury developed and you had a disc and were going to be off work for a long time?

[fol. 617] A. He said, "In your case, you could be hurt worse than you think you are."

He said, "We usually go in for about \$45,000 on a case like yours."

Q. Incidentally, how much were you earning per month at the time of this accident, approximately?

A. Well, I think, three months prior to the accident I think one of them was around \$780, and one around \$800, \$900.

Q. Somewhere around \$800 a month was your average at the time?

A. Yes.

Q. He told you that as far as signing any statements, that you should be careful what you sign for Mr. Aguer?

A. Yes. He said, "You want to watch him, because don't sign any papers for him."

Q. He told you that, as far as the medical situation and the doctors, that it would be difficult to obtain information from the Southern Pacific doctors as to just what injuries

you had and that if you elected to have Hildebrand represent you, that Hildebrand's office would send you to a private doctor and get a report on your condition?

A. Yes. They would send me to a private doctor in Oakland and get the report because the Southern Pacific Hospital wouldn't release any of the reports, whatsoever, about my injuries.

Q. Now, as far as these papers that you say he took [fol. 618] out of his pocket are concerned, they consisted of three or four pages, right?

A. Yes, sir.

Q. Could you see there was certain printed material?

A. No, sir, I couldn't. I don't think he ever did unfold them. I couldn't tell you at all what they were.

Q. You are just assuming it was a contract?

A. He led me to believe it was a contract. He asked me about three times if I would like to sign a contract with the Hildebrand, Bills & McLeod office.

Q. But he didn't say in these words, "If you want to sign, I will sign the contract for you right now"?

He didn't say anything like that to you?

A. He led me to believe he had the contract with him. I couldn't state he did or didn't have the contract.

Q. All right. Then in the course of the conversation, you asked him, if my notes are correct, how you would live if your injuries developed to the point where you couldn't work?

A. Yes, sir. I did ask him questions.

Q. He then asked you if you were getting railroad retirement?

A. He told me I would get around \$50. He said, "Well, you will get your disability, which would be around \$50, \$51 a week, and we could advance you up to \$300 or up to \$350, and that would give you plenty to live on until your case is settled."

Q. He said, "We could advance it"? Those are the words [fol. 619] he used?

A. He implied that the law firm of Hildebrand, Bills & McLeod—he said it was a lawyers' trust fund or lawyers' fund, or something like that.

Q. But you brought that subject up, the question of—

A. I did ask him, yes.

Q. If you could get any advances, and so on, in the event you turned the case over to us?

A. I did ask him, yes, sir.

Q. At that time you told him, then, you would think it over and decide whether you wanted representation or not?

A. I told him I would let him know, yes, sir.

Q. At that time he gave you one of his cards?

A. He gave me one of his cards and also one of the law firm's.

Q. Do you remember whose name was on the card he gave you?

A. One was the Hildebrand, Bills & McLeod attorneys, and one was Harry Dragmire, Regional Investigator.

Q. Do you remember whether the Hildebrand, Bills & McLeod card had the name of the lawyer on the bottom of it?

A. I think it had Clifton Hildebrand, or something like that.

Q. You don't recall exactly what the situation was? He told you at that time, if I understand it, that the contract for the Hildebrand office, if you decided to have our office represent you, was to be twenty-five per cent plus expenses?

A. Yes, sir.

[fol. 620] Q. Right?

A. Yes, sir.

Q. Then he called you on the phone on a couple of occasions afterwards to find out if you were ready to make up your mind, or what you were going to do?

A. Yes, sir, he did.

Q. On one occasion you met him in the vicinity of the hospital, but didn't—

A. Yes, sir. He was going in.

Q. There was no conversation?

A. He said, "I would like to talk to you."

And I said, "I don't have time right now."

Q. Finally on one of his telephone calls you told him you had settled directly with the company?

A. Yes.

Q. Incidentally, was your settlement wholly paid by the Southern Pacific Company, or did the meat truck contribute anything?

A. No. The Southern Pacific Company.

Q. How much did you get?

A. I think I got \$1,875, or—

Q. How long were you off work?

A. I was off 33 days.

Q. Mr. Dragmire, in that first conversation at your house, didn't tell you he had been sent out by Hildebrand or by the Hildebrand law firm? He didn't mention anything [fol. 621] about Hildebrand sending him out to see you?

A. No, sir. He said Mr. Rider had sent him out.

Q. Now then, the next time you saw Mr. Dragmire after that was just within the last week or so, on the 29th of June of this year?

A. Yes, sir, that is right.

Q. He and Mr. Rider came up to Roseville where you were working, looked you up, you got in Rider's car and they asked you about what statement you had given to the American Association of Railroads?

A. Yes. He said he didn't know exactly what I had given, but he said that was—the statements I had given, that I could explain most of the answers away at the deposition, if I wanted to.

Q. Well, have you read the statement that you gave the American Association of Railroads?

A. Yes, sir.

Q. In the last few days?

A. Yes, sir.

Q. Did that statement help you refresh your recollection as to just what had happened and what had transpired between yourself and Dragmire?

A. Well, I don't say it helped me any, because—

Q. It sort of brought it back to your mind?

A. As far as the dates are concerned, yes. I would say, yes.

Mr. McLeod: Do you have that statement, Mr. Angell? [fol. 622] Mr. Angell: Yes (handing document to Mr. McLeod).

Mr. McLeod: May I have just a moment to look it over, please?

(Discussion off the record.)

Q. In this conversation that you had with Mr. Rider and Mr. Dragmire on June 29th, you have stated that someone said, in effect, or Dragmire said, in effect, that you could explain away some of the things in the statement that you gave to the American Association of Railroads.

Is that correct?

A. Yes, sir.

Q. Didn't Mr. Dragmire state, in effect, that the statement probably read that some stranger came to your house, a man you had never seen or never asked for, and that he merely wished you to testify that you had first seen Mr. Rider, and Mr. Rider had told you he would send Mr. Dragmire or some representative out to see you?

A. Well, he wanted me to say that I had gone and asked Mr. Rider to send legal counsel out and that also that I was to say that he didn't ask me to sign a contract, which he said he didn't carry contracts. It was against the law of the State of California for him to carry a contract and to get a contract signed.

He said I should also say that I asked Mr. Rider for him to come out to see me. And he said, "That way, you can [fol. 623] get around—you can explain most of the questions away."

He said, "You should state," he said, "before them over there at the deposition, you asked for me to come out and you asked for legal counsel, and in that way," he said—He tried to imply I was going to hurt Mr. Rider's job if I didn't, and that Mr. Rider was also injured and he couldn't work any more for the railroad.

And he also went on to say that he had just come back from an investigation before the legal chairman for the firemen and had went down and tried to save his job.

Q. In effect, though, didn't Mr. Dragmire advise you that this statement that you signed probably said that some stranger—

A. No, he didn't.

Q. —had come to your house, and that was the general tenor of the statements obtained by the American Association of Railway Investigators?

"A stranger came to my house without any request on my part."

Didn't he use words to that effect in talking with you?

A. No, sir, he didn't.

Q. Actually, that is what you did say in this statement, that a stranger came to your home and you had never seen him before.

A. He was a stranger to me.

Q. Although you knew he was coming?

[fol. 624] A. No. I didn't think I did know he was coming.

Q. You knew someone was coming?

A. I knew someone was coming, because Mr. Rider asked me. He didn't say when. He said, "Is it all right if I send someone out to see you?"

Q. Mr. Dragmire may have telephoned you before he came?

A. He may have, yes.

Q. You, in effect, told Mr. Dragmire in the last conversation that he shouldn't say these things to you, you would probably go over and repeat everything he was now saying to you to the American Association of Railway Investigators, right?

A. Yes. I said, "You can't tell. I might work for the American Association of Railroads."

Q. Do you, by any chance, work for the American Association of Railroads?

A. No, sir.

Q. Do you have any promise of a job from them?

A. No, sir.

Q. Were you somewhat resentful of Mr. Rider and Mr. Dragmire visiting you within the last few days?

A. No, sir. I would be glad to talk to them again today.

Q. Then there was some conversation about whether you had been subpoenaed?

A. Well, he told me, at first, that I didn't have to come over, and then he said, "Well, you could be subpoenaed to go over." And he tried to impress on me, I didn't have to

[fol. 625] appear in San Francisco, that I had to appear in the county that I lived in, if they subpoenaed me.

And he said, "You do not have to go over there."

Q. He voluntarily said you didn't have to come down to San Francisco unless you were subpoenaed?

A. He told me I could be subpoenaed. And he told me, if he were me, he wouldn't show up either day.

That is what I understood him to say. And I told him I had been ordered.

Q. By Mr. McCann?

A. By Mr. McCann, the superintendent of Southern Pacific Company, for me to appear.

And I asked Stanley Rider, "Is that right? Do I have to appear?" which he didn't answer. He didn't say "Yes" or "No."

Q. Then in this last conversation you had with Mr. Dragmire, he told you that he had not attempted to have you sign a contract. He didn't have any contracts with him at the time of his visit to you?

A. Yes, sir, he did.

Q. That was improper, and he didn't carry contracts or attempt to have you sign a contract at the time?

A. That is correct, yes, sir. He said it was a questionnaire.

Q. He or Mr. Rider suggested that before you come over and see the American Association of Railroad Investigators yesterday, on the 5th, that you come in and talk to me?

[fol. 626] A. Yes, sir. Well, he—before I come to talk to the attorney—he said, before I come over and talk to the attorney, "Because he will ask you a lot of questions you don't have to answer."

He said, "Now, I would like for you to come down to Mr. Rider's office at 11:00 on the morning of the 5th, and we will go up and talk to Mr. McLeod."

Q. Well—

A. "Then I would like for you to ask him to go over with you. That way we will have counsel on both sides," he said.

Q. Wasn't there some talk about your appearing yesterday? Not appearing before Mr. Angell, being questioned before Mr. Angell yesterday, but appearing before the

investigator, or the investigator who took your statement, in talking to them?

Wasn't there some talk about that in your conversation with Mr. Drägmire and Mr. Rider?

A. I told him I was coming over to see Mr. Angell over there. He said, "What is the address there?"

I said, "200 Bush Street."

He said, "What is the address there?"

I said, "200 Bush Street."

Q. There was some mention made about your having a conversation, or intending having a conversation with these investigators?

A. No. There was nothing said about an investigator. The only thing said was I was coming over to see the attorney.

[fol. 627] He said it was just a pep talk to prime me for today, if you want the truth.

Mr. Angell: Was it?

The Witness: Well, the only thing I did was look at the statement and read the statement, and tell the same thing now that I told then, so—

Q. Well, you weren't contacted, though, at any time by either Mr. Hildebrand or myself, or by any of the lawyers from the Hildebrand office about coming in and seeing me, since my name has been used, prior to seeing Mr. Angell yesterday, right?

A. Just Mr. Drägmire asked me to.

Q. No lawyer from the Hildebrand office has contacted you at any time, either immediately after your accident or at any time of any of the conversations up to today, is that right?

A. No, sir. You are the first man I have seen.

Q. I am the first lawyer from the Hildebrand office that you have ever seen that you have talked to?

A. Yes, sir. That is true. That is correct.

Mr. McLeod: May I have just a few moments, please?

Incidentally, with whom did you settle your case for \$1,800? What claim agent?

The Witness: Carter.

Q. Carter?

A. O. N. Carter.

Q. Where is he located?

[fol. 628] A. San Francisco.

Q. Did you go down to 65 Market to have your conversation with him?

A. No, sir. It is by Third and Townsend over there.

Q. Third and Berry Street?

A. Yes, yes. On Berry Street.

Q. Yes. At that time, when you settled your case with Mr. Carter, did you tell him about your conversations with Mr. Dragmire early in the game?

A. No, sir. I didn't tell him until he come opt to the house. I went down there and told them I was ready to talk to them about settling the case, and it was, I think, the next day before he come out to the house.

He wasn't in that day. He was out.

Q. I see. Then Mr. Carter came out to your house in Newark?

A. Yes, sir.

Q. The next day and settled it?

A. Yes, sir.

Q. At that time you told him about your conversations with Mr. Dragmire?

A. He asked me if anybody had contacted me, and I told him Yes. And he said, "Who was it?"

And I said, "Mr. Harry Dragmire of the Hildebrand, Bills & McLeod office."

Well, I didn't know, exactly, the name, you know. I mean, all three names—this Mr. Hildebrand, you know.

[fol. 629] He asked me if I had a card, and I told him, "Yes. I have two of them."

And I picked them up, and I am pretty sure I gave them to him.

Q. Did he tell you they would probably want to get a statement from you as to what was said?

A. I gave the statement.

Q. Before he settled with you, did he tell you they would probably want the statement from you as to the alleged conversations with Mr. Dragmire?

A. No, sir. There was nothing said until after the set-

tlement and we were sitting there drinking coffee, and he asked me if anybody had been out to see me.

And I told him, Yes.

Q. I thought a few moments ago you told me that before the settlement was made, and when he was out at your house, that you had told him about Mr. Dragmire and your conversations.

A. No, sir. He had settled with me before he asked if anybody was out to see me. After the settlement, yes, sir.

Q. You told him about the conversations?

A. Yes, sir.

Q. Did he tell you then that someone else would probably come and want to get a statement from you, someone from the American Association of Railroads?

A. No, sir. It was almost a month after that before I was contacted by anyone from the American Association of Railroads.

[fol. 630] Q. Then on September 28th Mr. Smith from the American Association of Railroads came out and you gave him this statement I have just looked at?

A. Yes.

Q. Within the last couple of months, May 18th, he re-contacted you, did he?

A. Yes, at Napa.

Q. And had you re-sign it?

A. At Napa.

Q. You were working at Napa at that time?

A. Yes, sir.

Mr. McLeod: I think that inasmuch as we have referred to this statement I would like to have it marked in evidence and attached to the deposition.

Mr. Angell: I have no objection. Could I substitute copies? I have photostated, in my office, the statement.

Mr. McLeod: It is perfectly agreeable with me, Mr. Angell.

Mr. Angell: Yes. Then you wish to offer in evidence—we have no objection. We will even offer it as our own, if you wish.

Mr. McLeod: Why don't you offer it?

OFFER IN EVIDENCE

Mr. Angell: All right. I will offer the statement referred to in cross-examination by Mr. McLeod of Mr. Elmo S. Loman dated Newark, California, September 28, 1960, as State of Virginia Exhibit-Number 2, and ask it be so [fol. 631] marked and attached to the deposition.

Do you want a copy of that? I made one.

Mr. McLeod: We should have a copy attached to each deposition, I presume.

Mr. Angell: We can make all the copies you want.

Mr. McLeod: Go ahead.

Mr. Angell: Do you want this one?

Mr. McLeod: Yes.

Mr. Angell: Let's check and make sure it is okay.

It starts off the first page with "Elmo S. Loman," and ends up at the bottom with his signature.

Mr. McLeod: And "told me that," the last words.

Mr. Angell: "Dragmire told me that the," starting the top one, "Hildebrand firm had gotten—"

Down at the bottom, "pocket and."

Mr. McLeod: Yes.

Mr. Angell: Then "Elmo"—wait a minute. "Asked me to sign."

And then at the bottom, "The Hildebrand."

Up at the top—

Mr. McLeod: "Then he."

Mr. Angell: "Then he would" and ending, the written statement is correct.

Then Mrs. Loman's statement is there.

Mr. McLeod: Yes.

Mr. Angell: And the certification. Okay. Now, do you [fol. 632] want that?

Mr. McLeod: I have a copy of it.

Just another moment, please.

Mr. Angell: Yes.

Mr. McLeod: You can always think of something you should have asked on the way home.

Mr. Angell: I have only one I can think of. Do you want me to ask it?

Mr. McLeod: Go ahead.

Mr. Angell: You were mentioning in the conversation of June 29th at Roseville, some talk about the use of the tape recorder.

Was any part of that conversation heated or was there any anger displayed by any of the parties there?

The Witness: No, sir. I don't think so.

Mr. Angell: I have no further questions.

By Mr. McLeod:

Q. Along that line, didn't Mr. Dragmire say, in effect, that you really set him up for a patsy, or words to that effect?

A. Yes. He said, "It looks like I was set up for a patsy before I even got up there." He said that about four or five times as he was talking along.

Q. It is your sworn testimony that before he came out, you hadn't had any conversation with any officials or claim agents of the company?

A. That is correct, sir.

[fol. 633] Q. This tape recording was purely your own idea?

A. Yes, sir.

Q. How long had you owned the tape recorder before that incident?

A. Let's see. About four years.

Q. Do you still have it?

A. '56.

Q. Do you still have it?

A. Yes.

Mr. McLeod: I have no other questions at this time.

Mr. Angell: No further questions.

May Mr. Loman be excused?

Mr. McLeod: What about signature? Do you want him to sign it?

Mr. Angell: Yes. I will have Mr. Loman read it and make any corrections he deems necessary and sign it, of course, and we will see that you are notified when that is done, Mr. McLeod.

/s/ ELMO S. LOMAN

[fol. 634] Notary's certificate (omitted in printing).

[fol. 635]

COMPLAINANT'S EXHIBIT 2.

Newark, California
September 28, 1960

Elmo S. Loman states: I reside at 37117 St. Christopher, Newark, California. I was injured June 29, 1960 while working as a brakeman for the S P Co. I was confined to the S P General Hospital for three days following my injury. No attorneys or other persons approached me, while I was confined to the hospital, to try to get me to employ anyone to handle my case. On July 5, 1960 I went to my B of RT Union Hall in Oakland to inquire about payment of my union dues and insurance during the time I was to be off duty. I talked with Stanley Ryder the Local Chairman. Mr. Ryder asked me if I had a lawyer to handle my case. I told him that I did not. Ryder then told me that he would have a representative of the B of RT law firm call on me. Ryder did not mention the name of the law firm nor did he say just who from this law firm would call upon me. I did not make inquiry of Ryder about employment of a lawyer or law firm. It was he who started this conversation. On July 6, 1960 a stranger came to my home in Newark at about 11:00 a. m. This stranger introduced himself to me as Harry Dragmire. Harry Dragmire told me that he represented the law firm of Hildebrand, Bills & McLeod of Oakland which law firm represented my union. Dragmire told me that he was calling on me at the request of Stanley Ryder. Dragmire told me of other cases Hildebrand, Bills & McLeod had handled and bragged about the amounts they had recovered for the men. Dragmire told me

Elmo S. Loman

[fol. 636] that the Hildebrand firm had gotten a large settlement for William Cassidy an injured S P man. As I recall, Dragmire told me that the Hildebrand firm had gotten \$150,000.00 for Cassidy. Dragmire told me that the S P Co. would not have paid Cassidy anything unless he had hired the Hildebrand law firm. Dragmire told me that

I should not believe anything Barney Aguer, the S P Claims Agent, told me and warned me not to sign anything for him. Dragmire told me that if I would sign a contract for him he would immediately take photos and make other investigation. Dragmire told me that if I would sign the contract he would arrange to have me examined by medical specialists as the S P Hospital Department would never disclose the result of their examinations. Dragmire told me that if I would sign a contract for him he would arrange for the Hildebrand law firm to loan me \$350.00 a month while I was off work. Dragmire told me that, if my back injury was as serious as it might well be, the Hildebrand law firm could get me about \$45,000.00 in settlement of my case. My wife was present during this visit of Harry Dragmire to my home. Dragmire gave me his calling card as well as a card of the Hildebrand, Bills & McLeod law firm. Dragmire told me the Hildebrand firm would handle my case for twenty-five percent plus expenses. Dragmire removed some papers from his pocket and asked me to sign

Elmo S. Loman

[fol. 637] a piece of paper which he said was a contract with the Hildebrand firm. Dragmire told me that my back injury might be very serious and told me of a back injury he had. I told Dragmire that I did not want to hire the Hildebrand law firm. I did not ask Stanley Ryder to send Harry Dragmire or any other representative of the Hildebrand firm to see me. Harry Dragmire told me that he injured his back while working for some railroad and that the B of RT lawyers handled his case and did a good job for him. Dragmire said that his back condition was such that he could not return to railroad work and that he had taken his present job as a result of this disability. Dragmire was driving a new Lincoln auto. Dragmire telephoned my home three or four times after he called at my home and each time he urged me to hire the Hildebrand, Bills & McLeod law firm. On or about July 27, 1960 at the S P General Hospital I chanced to meet Harry Dragmire coming into the hospital just as I was leaving. Dragmire said that he would like to talk to me. I told him that I did not have time to talk to him. A few days after this chance meet-

ing with Harry Dragmire, he again telephoned me. At that time I told him I had settled my case in order that he would not bother me anymore. When Harry Dragmire called on me at my home he made it clear to me that if I signed the contract for him employing the Hildebrand then he would

Elmo S. Loman

[fol. 638] investigate my case. Dragmire made it clear to me that the fee of the Hildebrand, Bills & McLeod law firm would be twenty-five percent and that in addition I would have to pay for the cost of his investigation as well as other expenses. I have read this four page statement and it is correct.

/s/ ELMO S. LOMAN

Witness: W. A. Smith, September 28, 1960; 7:00 P. M.

Gloria M. Loman states: I have read this four page statement given by my husband, Elmo S. Loman this date. I was present at the time Harry Dragmire called at our home and tried to get my husband to sign a contract employing the Hildebrand, Bills and McLeod law firm and I verify that that portion of my husband's statement concerning Harry Dragmire's conversation with my husband on that occasion is true and correct as set out in the above statement.

/s/ GLORIA M. LOMAN

Sept. 28, 1960

Witness: W. A. Smith, September 28, 1960; 7:15 P. M.

[fol. 639] I have this day read again the attached statement consisting of four pages, which I gave and signed on the 28th day of September, 1960.

I certify (or declare) under penalty of perjury that the matters set forth in my attached statement are true and correct.

Executed on May 18, 1961 at Vallejo, California.

Signature ELMO S. LOMAN

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[fol. 640]

HILDEBRAND, BILLS & McLEOD
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CLIFTON HILDEBRAND

HARRY S. DRAGMIRE
Regional Investigator
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190 Hill Top Crescent
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Yellowstone 5-4538

Lodge 887

[fol. 641]

NOTICE TO TAKE DEPOSITIONS (omitted in printing)

To Brotherhood of Railroad Trainmen:

• • • • •

[fol. 643] [File endorsement omitted]

[fol. 644]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

No. _____

COMMONWEALTH OF VIRGINIA, ex rel.,
Virginia State Bar, Complainant,

—vs.—

BROTHERHOOD OF RAILROAD TRAINMEN, et al., Defendants.

Deposition of Virginia Lee Troxtell—July 13, 1961

APPEARANCES:

For Complainant: William T. Sharp.

For Defendants: Henslee & Henslee, By Robert E. Harrington.

[fol. 645] Deposition of VIRGINIA LEE TROXTELL, a witness produced and sworn before me, Don Oakes, a Notary Public of Marion County, State of Indiana, at the office of Metcalf, Mahan, Mahan & Connor, 1406 Fletcher Trust Building, in the City of Indianapolis, County of Marion, State of Indiana, on the 13th day of July, 1961, pursuant to Notice to Take Depositions hereto attached. This deposition was taken on the part of the complainant in a certain action now pending in the Chancery Court of the City of Richmond, Virginia, wherein Commonwealth of Virginia, ex rel., Virginia State Bar, is complainant and Brotherhood of Railroad Trainmen, et al. are defendants.

[fol. 646] VIRGINIA LEE TROXTELL, being first duly sworn to testify the truth, the whole truth, and nothing but the truth, relating to said cause, deposes and says:

Direct examination.

Questions by Mr. William T. Sharp:

- 1 Q. State your name for the record, please.
A. Virginia Lee Troxtell.
- 2 Q. Where do you live?
A. 1209 Olive.
- 3 Q. Indianapolis, Indiana?
A. Indianapolis.
- 4 Q. Are you the wife of Lawrence E. Troxtell?
A. Yes.
- 5 Q. Were you the wife of Lawrence E. Troxtell, married to and living with him on the 13th day of June, 1959?
A. Yes.
- 6 Q. Did he sustain an injury on that date?
A. Yes.
- 7 Q. For whom was he working on that date?
A. Pennsylvania Railroad.
- 8 Q. Briefly the nature of the injury was what?
[fol. 647] A. Well, as well as I can understand he had a broken hand. I never did get too clear on the deal because I didn't ask him. It wasn't none of my business. He tells me what he wants me to know and that's it.
- 9 Q. Now there is here in this room today present, besides the Reporter and yourself and myself, Mr. Robert Harrington from Chicago. Have you ever met Mr. Harrington before?
A. No, not until this morning.
- 10 Q. Following your husband's injury, did he later make a settlement with his employer whereby he was paid a certain sum of money for the injury he had received?
A. Yes.
- 11 Q. Do you recall about when that settlement was made?
A. It was the latter part of April.
- 12 Q. April 1960?
A. No. Yes, it was, too. I can't remember. It's been so long ago.
- 13 Q. Now will you in your memory go back to the date of this injury and recite for this statement today what took place from the time of the injury to the time of this

settlement with reference to his treatment, and just tell us how this settlement came about.

[fol. 648] A. Well, as near as I can remember, the night he got hurt they took him to Community.

14 Q. You are referring to the Community Hospital here in the city?

A. Here. They checked his hand and put one of those rubber things around it. The hand didn't get any better. Dr. White here sent him to Dr. Brady and they put him in a cast. He was in three of them during the summer. And from there on, I can't say what happened in Chicago. He told me he went up there and they gave him a physical.

15 Q. Well, now, before the time that he went to Chicago, were you present in your home when anyone came to the house to talk to him about the injury?

A. Yes. George Rummel came out to the house on several occasions. I don't know how many. I don't remember that. And on one occasion he brought another man out there who he introduced as Bob Crago.

16 Q. Do you remember, Mrs. Troxtell, about how long it was after the injury until Mr. Rummel came out with Bob Crago?

A. It was just before Thanksgiving. It was cold weather because I was worried about Thanksgiving dinner.

17 Q. That was in the year 1959, the same year as the injury?

[fol. 649] A. Yes.

18 Q. Were you present at the time that your husband, Mr. Rummel and Mr. Crago discussed this injury?

A. Part of the time.

19 Q. If you were, will you relate for the record what that discussion was, just what was said?

A. Well, like I said, I was in and out. I didn't stay in there all the time. They called me in and they said they wanted my presence in there for something. I don't know what it was now. But they wanted him to go to the Legal Aid and settle because they—the way I understood it—

Mr. Harrington: And by "they" who are you referring to, which gentlemen?

The Witness: Bob Crago and George Rummel both.

Mr. Harrington: What did they say? What was said?

The Witness: Well, as near as I can remember, they promised him that they would get his hand fixed back up in condition because the old man said that was what was worrying him because he is a musician and he was worrying about never being able to use that hand right. They [fol. 650] promised if he would go to Legal Aid, they would see to it he could use that hand again.

20 Q. When you say "they" you are talking about Mr. Crago and Mr. Rummel?

A. Yes.

21 Q. That's the gist of that conversation as you best remember it, is that right?

A. Yes. I was in and out. I don't remember too much about it. It did cause friction in our home. The man should have been working and we wasn't getting along too good. He was laying around the house and getting on my nerves and we was sparring back and forth quite a bit.

22 Q. Did you discuss the matter of their visit with your husband then, or afterwards?

A. No. Well, he asked me, "Ginny," he said, "what is your opinion?" I said, "It is your hand. It is your job. You use your own judgment." I said, "I can't tell you." I said, "Whatever you do, it is O.K. with me because it is you that is hurt. I am not."

23 Q. What was it he wanted your opinion about?

A. What he should do. He said, "Do you think I should go to Legal Aid or stay with the railroad because the [fol. 651] railroad is treating me fine." That's the way he put it. He said the railroad was—

24 Q. All right. Now just answer the questions. Did your husband after that visit from Mr. Crago and Mr. Rummel go to Chicago?

A. Yes. It was after that that he went up there. George brought some papers out there. I don't know what they were. He had to sign them to give his consent for Legal Aid to take his case.

25 Q. How long was that before he went to Chicago that that took place?

A. It seemed to me like the first time he was up there was in February. Now I am not sure about that. I don't remember.

26 Q. All right. Did you go to Chicago with him at any time later on?

A. The last time he went up—I didn't go with him, no, but I did meet him there.

27 Q. Was that the time you settled it or before that?

A. It was when he got his settlement.

28 Q. You didn't meet Mr. Harrington at that time?

A. No. I seen him in a restaurant. We ate breakfast in the same restaurant. He had his back to us. My husband [fol. 652] said, "That's Mr. Harrington over there at that table."

29 Q. That is this same Mr. Harrington who is here in this conference room today?

A. I think so. I just seen the back of his head.

30 Q. Did you ever see Mr. Crago any more after that?

A. No. We talked to him by phone, but that was all.

31 Q. Were you present in your home on March 23, 1961 at which time one M. P. Scanlan took a written statement from your husband with reference to the facts of this accident and the settlement thereof?

A. Yes.

32 Q. Did you examine the statement after it was taken?

A. Yes.

33 Q. Did you sign it?

A. Yes, I did.

34 Q. I will hand you what has been marked for identification purposes Complainant's Exhibit 4 and ask you to examine it and state for the record what it is, if you know.

A. Well, this whole thing here?

35 Q. Yes.

A. I don't know how to even word that.

36 Q. Well, you had testified previously that you were [fol. 653] present when Mr. M. P. Scanlan took a written statement from your husband.

A. Yes.

37 Q. Now you have examined this instrument. Tell us whether that is the statement that he took.

A. Yes. There are things in there I even forgot about until I read that again.

38 Q. But you were present when it was taken?

A. Yes.

39 Q. And you signed it at that time, is that right?

A. Yes.

40 Q. Do the statements made there accurately represent what took place at the time Mr. Scanlan was in your living room and what your husband told him?

A. Yes.

41 Q. And you were present all during the time that was being taken?

A. Yes. I was there all the time when that was taken. But when they was coming out to our house, I wasn't. Because at that time we rented from my dad and I would go to Mom's a lot of the time when the men were there because it wasn't none of my business. I was in and out. [fol. 654] 42 Q. When the men were there—who are you talking about, what men?

A. That was Mr. Crago and George Rummel. But this man, I was at home at all times, right there.

43 Q. Prior to your husband getting a settlement on this matter, did he turn it over to the Brotherhood of Railroad Trainmen to let them handle it?

A. Yes.

44 Q. And after that was done and this settlement was reached?

A. Yes.

45 Q. Do you know anything else about the matter of your husband's settlement for his injury other than what you have stated here?

A. No.

46 Q. What you have stated here is all you know about it, is that right?

A. When he made the statement here, I found out more then than I knew at the time. There was things that he told that he didn't tell me because he and I have come to an agreement. He works the railroad and I keep the home up. I don't ask him no questions and he don't ask me no questions.

47 Q. You don't talk shop much in your house?

[fol. 655] A. No.

Mr. Sharp: I believe that is all.

Cross examination.

Questions by Mr. Robert E. Harrington:

48 Q. Mrs. Troxtell, when the statement was taken by Mr. Scanlan that you have just referred to you were present in the room all the time it was being taken, is that correct?

A. Yes.

49 Q. And you read it before you signed it?

A. Yes.

50 Q. And there are things in there that you don't know about personally?

A. Well, I knew about it but when it come right down to the facts, dates and things like that is what I didn't know a lot about. I didn't keep up with things like that.

51 Q. And as far as you know, Mr. Crago only came out to your house once?

A. To the best of my knowledge, now, he was there that one time that I can remember. I had even forgotten about being in Chicago twice until I read this over again. And I [fol. 656] told the man that.

52 Q. Did Mr. Scanlan come back to your house after he took that statement?

A. Once.

53 Q. At that time did he make corrections on the statement?

A. Yes. There was something in there he wanted my husband to correct and I forget what it was even now.

54 Q. Is that the time that Mr. Scanlan asked you to, if you would give a deposition as to what was in that statement?

A. I believe it was.

55 Q. Did Mr. Scanlan tell you that your time and expenses would be taken care of?

A. Yes, he did.

56 Q. Did he tell you how much he would give you for your time and expenses?

A. No.

57 Q. Did he tell you he would pay you for the time of taking the statement and also for testifying in this deposition?

A. That one, but not this one.

58 Q. But as far as your coming here today to testify, your time and expenses would be taken care of. Is that [fol. 657] right?

A. He said they would be.

59 Q. Did he say who would pay you for them?

A. No.

60 Q. He didn't tell you how much you would be paid?

A. No.

61 Q. Did Mr. Scanlan put in that statement that was taken on March 23, 1961 everything that was said between your husband and himself?

A. Yes.

62 Q. There was no conversations other than what was in this statement?

A. That's all. They had small talk about it because several times we would forget and one of us would remember dates or something and he had to start that over two or three times.

63 Q. Did Mr. Scanlan have a file on the case, too?

A. I don't know. He had a brief case, but I couldn't tell you whether he did or he didn't.

64 Q. Did he refer to any papers, if you recall, when he took the statement?

A. I never paid that much attention to it.

65 Q. And Mr. Scanlan wrote this out in his own handwriting?

A. Yes.

[fol. 658] 66 Q. Is this the first time that you saw this statement since the time that you signed it?

A. No. This gentleman here brought it out to the house. I forget even what night you was out there.

Mr. Sharp: Tuesday.

A. Well, he brought it back for him to make the corrections and then you brought it out. That's the second time I seen it.

67 Q. That's the attorney for the complainant here, is that correct?

A. Yes.

Mr. Harrington: I have no further questions.

Mr. Sharp: At this time the complainant would ask that Complainant's Exhibit 4 be attached to and made a

part of this statement given by the witness and for the further purpose of the corroboration of the truth and veracity of the deposition taken this date by her husband, Lawrence E. Troxtell, wherein the same statement was submitted as part of the record.

Mr. Harrington: I will object to it being made a part of this record or being admitted into evidence on the [fol. 659] grounds (1) that it is not a statement of this witness and (2) that it is a self-serving document and (3) that the party who took the statement is not present to identify same and in whose handwriting the statement is in and is not subject to cross examination.

That is all.

Mr. Sharp: I have nothing further.

And Further Deponent Saith Not.

(Signature Waived.)

[fol. 660] Notary's certificate (omitted in printing).

[fol. 662] [File endorsement omitted]

[fol. 663]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

No.

COMMONWEALTH OF VIRGINIA, ex rel.,
Virginia State Bar, Complainant,

—VS.—

BROTHERHOOD OF RAILROAD TRAINMEN, et al., Defendants.

Deposition of Lawrence Edward Troxtell—July 13, 1961

APPEARANCES:

For Complainant:

William T. Sharp.

For Defendants:

Henslee & Henslee,

By Robert E. Harrington.

The deposition of Lawrence Edward Troxtell, a witness produced and sworn before me, Don Oakes, a Notary Public of Marion County, State of Indiana, at the office of Metcalf, Mahan, Mahan & Connor, 1406 Fletcher Trust Building, in the City of Indianapolis, County of Marion, State of Indiana, on the 13th day of July, 1961, pursuant to Notice to Take Depositions hereto attached. This deposition was taken on the part of the Complainant in a certain action now pending in the Chancery Court of the City of Richmond, Virginia wherein the Commonwealth of Virginia, ex rel., Virginia State Bar is Complainant and Brotherhood of Railroad Trainmen, et al. are defendants.

[fol. 665] LAWRENCE EDWARD TROXTELL, being first duly sworn to testify the truth, the whole truth, and nothing but the truth, relating to said cause, deposes and says:

Direct examination:

Questions by Mr. William T. Sharp:

1 Q. State your name, please.

A. Lawrence Edward Troxtell.

2 Q. Where do you live?

A. 1209 Olive Street, Indianapolis.

3 Q. What is your business or occupation?

A. Yard brakeman, Pennsylvania Railroad.

4 Q. How long have you worked for the Pennsylvania Railroad?

A. Five years.

5 Q. Are you a member of any trade union or association?

A. BRT.

6 Q. What does that mean?

A. Brotherhood of Railroad Trainmen.

Mr. Harrington: I object to Mr. Troxtell referring to notes at this time.

7 Q. To what local lodge or chapter of that Union do you [fol. 666] belong?

A. I believe 261 is the number on it.

8 Q. Calling your attention to June 13, 1959 were you employed by the Pennsylvania Railroad at that time?

A. Yes, sir.

9 Q. As a brakeman?

A. As a brakeman.

10 Q. Would you just recite briefly and in your own words what, if anything, happened to you on that date with reference to your job?

A. On June 13?

11 Q. Yes.

A. That was the night that I was riding the second trick hump and injured my left hand.

12 Q. Briefly how did that injury occur?

A. Well, I was setting the hand brake on a gondola of steel riding off the hump and the brake gave way and caught and my hand slipped under the brake club.

13 Q. Where specifically did that accident take place?

A. At Hawthorne Yards.

14 Q. That's here in the city?

A. Yes.

15 Q. What did you do after having sustained this injury?

[fol. 667] A. I went back up to the hump and reported to the conductor.

16 Q. When did you first receive medical care?

A. Well, they took me to the hospital that night and put a rubber bandage around it that night and X-rayed it.

17 Q. When did you first lose work as a result of this injury?

A. Well, I believe I marked off the next day. I didn't work the next day. And the best I can remember, I was off five days and then went back to work. That's the best of my memory.

18 Q. To whom, if anyone, did you thereafter have an occasion to discuss this injury?

A. I called Mr. Rummel, George P. Rummel.

19 Q. Is that spelled R-u-m-m-e-l?

A. I believe that's the way it is spelled. There is two of them out there and they spell their names differently.

20 Q. Who was George P. Rummel?

A. He was the local griever of this local here.

21 Q. The local chapter of your Union?

A. That is right.

22 Q. When did you first discuss this with him?

A. I believe it was the next day I discussed it with him. And Mr. Parr, the trainmaster, asked me if I was able to work a work train which wouldn't customarily have any- [fol. 668] thing but just flagging on it. And I called Mr. Rummel and asked him about that. And he asked me, "Are you able to climb up on a car?" And I said, "Not with this hand the way it is." And he said, "Mark off."

23 Q. When did you next have an occasion to talk to Mr. Rummel?

A. That was after I had worked five days again and my hand began to hurt me worse than it had. So I called him again and asked him what to do about it.

24 Q. What was the conversation that took place then?

A. Well, that is when he told me to mark off and see what they could do about it. And that is when they put me in a cast after that.

25 Q. When did you next have an occasion to discuss this with Mr. Rummel?

A. Let's see. I called Mr. Rummel again, I believe I had been in that cast—I had been in my second cast and it had been taken out of my second cast and that is when Dr. White sent me to see Dr. Brady. And Dr. Brady said he had found in the other X rays, that a hairline fracture has shown up that hadn't shown up before. That is when I called Mr. Rummel.

26 Q. About when would that have been?

[fol. 669] A. I couldn't tell you the date. I know I had the cast on, both casts, approximately three weeks or more. And I had two of them off and had the second one taken off and Dr. Brady found the hairline fracture.

27 Q. To the best of your memory, about when was this conversation that you had with Mr. Rummel after the discovery that you had a fracture in your hand?

A. Approximately it would be—it must have been the latter part of August or September, the best I can remember now. It must have been.

28 Q. After your discovery of the fracture, when did you next discuss this with Mr. Rummel?

A. I called him right after that, after I had been put in the third cast. Dr. Brady put me in the third cast.

29 Q. Were you then off from work?

A. Yes, I was off from work all that time.

30 Q. Did you ever discuss this with Mr. Rummel out in your home?

A. Later on. That was over the phone that day.

31 Q. How much later on?

A. I think he showed up approximately maybe a week later, ten days or something like that. He told me he had been over to see me.

[fol. 670] 32 Q. Was he alone when he came at that time?

A. No. That is when he brought Mr. Crago with him.

33 Q. Do you know what Mr. Crago's first name is?

A. I believe it is Bob, Robert. They call him Robert. They introduced him as Bob Crago, though.

34 Q. Would you recite whatever conversation took place at that particular time? Now this is at your home.

A. This is at my home, yes.

35 Q. Fix the time as near as you can from the date of your injury.

A. Well, it would be some time in September, I believe.

36 Q. All right. Now state just what happened and what was said.

A. Well, Mr. Rummel introduced me to Mr. Crago.

Mr. Harrington: I am objecting to this. First, let's find out who was present at the time.

37 Q. At the time this conversation took place, who was there?

A. Mr. Rummel, Mr. Crago, and my wife and myself were the only ones.

38 Q. State what the conversation was that took place.

A. He introduced me to Mr. Crago and he asked me about the nature of my injury and what had been done for it.

[fol. 671] 39 Q. When you say "he" whom do you mean?

A. Mr. Crago asked me the nature of it, how it was working and how it was getting along. And I told him that it wasn't getting along too good; that I had these three casts

on it and still was unable to use it too good. And so he—that's when he recited to me a case where that—well, then he asked me if the railroad was taking care of me. And I said they had been giving me checks every month or whenever I went down and had to have them, they give me checks. And he said that Mr.—he didn't specify Mr. Harrington—I started to say that, I don't believe he did. I think he said the Legal Aid could do the same thing for me if I needed funds. And I told him I wasn't too interested in the money, that I wanted what money was coming to me, but what was bothering me was would I ever use my hand again. And he said, "The Legal Aid will furnish medical treatment the same as the Pennsylvania Railroad is." And he cited me a case where a brakeman, I believe, at Terre Haute had a back injury and went ahead and settled with the Pennsylvania Railroad, and later on he fell off of a car, or something, and that old injury reoccurred and caused him a lot of misery. And he said that the hand would do [fol. 672] the same thing. He said, "They will see to it that it is well and your medical will be taken care of."

40 Q. When he said they would see to it, whom did he indicate?

A. The Legal Aid. He said they have staffs of doctors up there that I would go see.

41 Q. Did he explain to you who and what the Legal Aid is?

A. He didn't go into any details, but I had a rough idea of what it was, yes.

42 Q. What was your idea of what it was?

A. Well, I figured it was Legal Aid set aside for the Brotherhood, BRT. I presumed that they had them to take cases like this.

43 Q. When you say "... them to take cases like this," whom do you mean?

A. Legal Aid. I didn't know too much about it until I got up there and talked to Mr. Harrington and the rest of them who said what it was.

44 Q. When did you next have an occasion to talk to Mr. Crago about this matter?

A. The best of my memory is that is the last time I talked to Mr. Crago. I tried to reach him two or three

times by telephone after I had talked to Mr. Harrington [fol. 673] and had been up there. I never did reach him again. To the best of my knowledge, that was the last time I ever talked to Mr. Crago.

45 Q. To keep the statement in logical sequence, try to recall these things in their accurate order.

A. All right.

46 Q. Tell us what you did with reference to this injury after this visit from Mr. Crago and Mr. Rummel.

A. Well, after they came there and talked to me, I talked to the wife and made up my mind it was all right.

47 Q. What was all right?

A. I thought we should sign up with the Legal Aid because I was worried about my hand.

48 Q. Was that the purpose of the visit?

A. That was the purpose of the visit. I told Mr. Crago then, and I told everybody else, that's what my main concern was, was the hand, and I had been promised medical aid.

49 Q. When Mr. Crago and Mr. Rummel came out to talk to you, did they state the purpose of their visit?

Mr. Harrington: I am objecting to the leading questions, Counsel. If you want to go into all the conversations, well and good, but the leading questions I am objecting to.

[fol. 674] 50 Q. Just state what the conversation was that you have referred to previously upon the occasion that Mr. Crago and Mr. Rummel visited you and your wife in your home.

A. Well, haven't I stated that? To the best of my knowledge, he told me what the advantages was of the Legal Aid and that the hand would be taken care of. And I agreed to go up and see the Legal Aid. Ten days later when we went up and seen them—

51 Q. Where did you go to?

A. To Chicago.

52 Q. Who suggested that you go to Chicago?

A. Mr. Crago.

53 Q. Did you, in fact, go to Chicago about ten days after that?

A. About ten days later. I think it was ten days right on the nose. Yes, me and Rummel and Mr. McCamman went to Chicago.

54 Q. State how you got there.

A. I went with Mr. Rummel and Mr. McCamman. We went down to the Union Station. They both rode a pass. I didn't have a pass and Mr. Rummel paid my way.

[fol. 675] 55 Q. Where did you go upon your arrival?

A. We arrived there in Chicago and went to the Planters Hotel.

56 Q. On State Street. Did you register in there?

A. Mr. Rummel registered for all of us.

57 Q. Where—

A. I signed the register, but he took care of all the rest of it.

58 Q. Where did you go then after having signed in at the hotel?

A. It was late at night. We went around the corner and had a bite to eat and then went right back to the hotel and went to bed.

59 Q. What happened the following morning?

A. The following morning we got up early and went down to Legal Aid. I was introduced to Mr. Harrington.

60 Q. You referred to the Legal Aid. Where was that?

A. That was on State Street also. The address, offhand I wouldn't know what it was.

61 Q. Was the office to which you went designated and marked the Legal Aid?

A. No, it wasn't.

62 Q. What office did you go to?

[fol. 676] A. I can't think of what it was just exactly.

63 Q. How did you come to go to whatever office you went to?

A. Well, Mr. Rummel took me there.

64 Q. Whom did you talk to there, if anyone?

A. Mr. Harrington.

65 Q. Recite briefly what that conversation was.

A. Mr. Harrington just explained to me just what the procedure was and that I would be taken down to his doctor there—Dr. Turner, I believe—in Chicago, and the hand would be checked and I would be checked over, and see what

we needed. And he explained to me what the terms of the settlement would be.

66 Q. Well, just state what he explained to you that the arrangement was.

A. Well, the arrangement was he would get the settlement for me when the proper time came and he thought it was ready and he would get 25 per cent.

67 Q. Was that agreement reduced to writing? Did you sign a contract?

A. I signed a contract, yes.

68 Q. Do you have a copy of it?

A. No, I don't.

69 Q. Did you have at that time?

[fol. 677] A. No, I didn't.

70 Q. You referred to some doctor. Did you have an occasion upon the occasion of your first visit there in Chicago with Mr. Harrington to see a doctor?

A. He sent us out that day. After he had talked to us, we went and seen this doctor at the clinic—Dr. Turner's clinic.

71 Q. Was that the doctor that Mr. Harrington directed you to?

A. Yes. Mr. Rummel took us there in a cab.

72 Q. How many doctors examined you there?

A. I believe there was three that interviewed me and examined me there that day, the best I can remember, three different ones.

73 Q. Do you know the name of any other than Dr. Turner?

A. Dr. Turner didn't see me. They were Oriental doctors, the best I can remember. Dr. Turner didn't see me.

74 Q. What did you do after having been examined by these doctors?

A. Mr. Rummel picked Mr. McCamman and I up that afternoon and he had already checked us out of the hotel, I believe he said, and had our baggage at the station. And we went back and caught the Riley and come back on the Riley that night.

[fol. 678] 75 Q. Did you pay for any of your accommodations in connection with this trip to Chicago?

A. No.

76 Q. What was your next connection with Mr. Harrington with reference to this matter?

A. I went back later after that again. I can't remember when it was, the date or anything like that. But I made another visit up there. I went through Dr. Turner's clinic again up there and was checked.

77 Q. When was that?

A. Oh, it was approximately three months after that, the best I can remember. I don't know exactly when it was, but it was some time after that that he asked me to come back up.

78 Q. Who is "he"?

A. I got ahold of the griever here and he called Mr. Harrington, I believe, and he asked us to come back up. I think Mr. McCamman was supposed to have another physical up there and he asked us both to come back.

79 Q. Who is Mr. McCamman?

A. He is a fellow that went with us.

80 Q. Another trainman?

A. I believe you will find his name in the statement there. [fol. 679] He went along with us. He was injured also.

81 Q. State just what took place on the occasion of this second visit you have referred to.

A. Well, I am trying to think if this was Mr. Rummel or—see, he was killed around there some time, and I don't think—I believe the next time we went back there, George Agei took us back there.

82 Q. Will you spell that last name for us, please?

A. I believe it is A-g-e-l. I believe it is.

83 Q. Mr. George Agei had taken over after Mr. Rummel was deceased?

A. Yes. And he drove us up in his car this time.

84 Q. Did you go to Mr. Harrington's office again?

A. Yes. After checking into the hotel there, we went the next morning and went through just practically the same procedure.

85 Q. The same as you related having taken place previously?

A. Practically the same, all except some of the stuff—I mean, he didn't explain about the settlement this time.

Mr. Harrington wanted to know how my hand was coming along.

86 Q. After this first visit and before the second, had you received the advance of any monies from any source? [fol. 680] A. After the first visit and before the second I had gotten money from Mr. Harrington.

87 Q. How much money?

A. I couldn't tell you that. I did have it wrote down at home, but I can't tell you now. But it was sufficient of what I had asked for. Mr. Crago told me I would get the same thing, and I did.

88 Q. What was the "same thing", a certain amount of money?

A. I believe the first time—I can't remember exactly, but it must have been \$200. That was what I needed. That's what the railroad had advanced me.

89 Q. Well, just what happened next with reference to your settlement of this injury?

A. Well, that's the way it went on. I stayed at home and I think after I had set it out for awhile, I called Mr. Harrington. About Christmas time I called Mr. Harrington and told him I needed some money. And he wired me some money just before Christmas. I don't think that was \$200. The best I can remember, maybe it was a hundred or—I couldn't tell you. It was a hundred or a hundred and fifty, maybe, he wired me to get it here in time for Christmas.

90 Q. That would have been Christmas of the year 1959? [fol. 681] A. Yes.

91 Q. What happened next with reference to your settlement of this injury?

A. Well, after that, I believe, is when I called Mr. Carrico then who was the next local griever. He was elected next as the next local griever. And I told him the hand wasn't getting any better and asked would he call Mr. Harrington for me and tell him—let's settle the case, I want my money. And he called Mr. Harrington and told him those very words, I believe. So Mr. Harrington gave us a date to come up and talk to him. And it wasn't too long after that, approximately ten days or something like that, he set the date and Mr. Carrico and I drove up in his car.

92 Q. Who set that date?

A. Mr. Harrington did. He told us when it would be convenient for him. I don't know when it was, but it wasn't too long after I called, very shortly.

93 Q. This is, then, the third trip that you made to Chicago?

A. This was the third trip.

94 Q. Would you tell us what occurred on the occasion of this visit?

A. This was the same thing. We checked in at the Plant-[fol. 682] ers Hotel and went and see Mr. Harrington the next morning, talked the case over, and he told me what we could get. And he asked me how the hand was, and I told him that it wasn't getting any better. And he said the only thing that his doctor told him was that they could make an exploratory operation on the hand, that that was the only thing they could do. And he asked me if I wanted to settle. And I said that I had come up there to make up my mind. He asked me if I was sure that's what I wanted. And I told him, "Yes." He called the man up there in Chicago—I presume the head claim agent—and he came over and gave me a check. And that was it.

95 Q. Was that the same day?

A. That was the same day.

96 Q. Had you received any correspondence or letters from Mr. Harrington in connection with any of the advances of money that he made to you during the pendency of this case?

A. I had a letter or two from him, I don't know exactly what it was about now, but at one time he told me, before I wrote and asked him for money, to write and ask him for the money. Well, he told me that after I left his office [fol. 683] the first time. He told me to write and tell him what I needed. And outside of that he sent me a report that the doctors give him once. And I told him to break it down in my terms where I could read and understand it. And he did that and wrote and told me what they found about my hand.

(Complainant's Exhibit No. 1 was marked for identification by the Reporter.)

97 Q. I will hand you what has been marked for identification as Complainant's Exhibit 1 and ask you to examine it and state for the record what it is.

A. This is one of the letters that Mr. Harrington sent me after I had wrote him and asked him for a loan.

(Complainant's Exhibit No. 2 was marked for identification by the Reporter.)

98 Q. I will now hand you Complainant's Exhibit No. 2 and ask you to examine it and state for the record what it is, if you know.

Mr. Harrington: This is for identification?

Mr. Sharp: For identification purposes only.

[fol. 684] A. I don't understand what you mean, sir.

(At this time a brief discussion occurred off the record.)

A. (continuing) Well, this is the envelope that was mailed to me with a letter in it from Mr. Harrington.

99 Q. Is Exhibit 2 the envelope in which you received Exhibit 1?

A. Yes.

Mr. Sharp: Let the record now show the request that Complainant's Exhibits 1 and 2 be made a part of the record herein.

Mr. Harrington: We object to them being entered into the record on the grounds that the fact that the firm of Henslee & Henslee loans money to a client is not in issue in a case pending in Virginia. On that basis, I am objecting.

(Complainant's Exhibit No. 3 was marked for identification by the Reporter.)

100 Q. I will now hand you what has been marked for purposes of identification Complainant's Exhibit 3 and ask you to examine it and state for the record what it is, if [fol. 685] you know.

A. This is the breakdown that they give me in Chicago, Mr. Harrington and this claim agent, showing what my settlement was. And the railroad loan had been taken out, the railroad retirement that I had received and in loans

that I had received from Henslee & Henslee and the fee and the balance of what I received.

101 Q. Was this exhibit given to you at the time of your settlement by Mr. Harrington?

A. Yes, that's the breakdown on it. That's my total check.

102 Q. And this exhibit, then, accurately reflects the terms and breakdown of that settlement that you made at that time?

A. That is right.

Mr. Sharp: At this time let the record show the request that Claimant's Exhibit No. 3 be attached hereto and made a part thereof in this record.

Mr. Harrington: No objections.

103 Q. Did the making of this settlement, then, conclude the matters that took place between you and Mr. Harrington?

A. That ended it.

104 Q. This injury that we have been discussing here [fol. 686] today, then, took place something a little over two years ago, is that correct?

A. Yes, sir.

105 Q. On or about March 23, 1961, did you have an occasion to make a written statement in connection with the facts of your injury and the retaining of Mr. Harrington and his law firm and the settlement of this lawsuit?

A. Is that the statement of Mr. Scanlan, I believe?

106 Q. Yes.

A. Yes.

107 Q. Again, this was made on or about March 23, 1961?

A. Yes.

(Complainant's Exhibit No. 4 was marked for identification by the Reporter.)

108 Q. I will now hand you what has been marked for identification purposes as Complainant's Exhibit No. 4 and ask you to examine it and state for the record what it is, if you know.

A. This is a statement that I have Mr. Scanlan at my home.

109 Q. Is this your signature on that statement in the middle of Page 10?

A. Yes, that is my signature.

[fol. 687] 110 Q. Was this statement taken in your home?

A. In my home, yes, sir.

111 Q. Who was present at the time it was taken?

A. Mr. Scanlan, my wife and myself.

112 Q. Who is Mr. Scanlan, if you know?

A. Well, he is with the American Association of Railroads. That's all I know. I don't know what his title is or anything.

Mr. Sharp: At this time the Complainant requests that its Exhibit 4 be attached to this deposition and be made a part thereof.

Mr. Harrington: I would like to see it.

I object to this being made a part of the record on the grounds that the gentleman who took the statement is not here, is not here to identify the statement nor is he here to introduce the statement into the record and subject to cross examination and that the statement is self-serving.

(Complainant's Exhibits Nos. 4-A and 4-B were marked for identification by the Reporter.)

113 Q. Now I will hand you what has been marked further for identification purposes Complainant's Exhibits 4-A [fol. 688] and 4-B and just ask you to state for the record what they are.

A. These are the photostats of the statement that I made at my home before Mr. Scanlan.

114 Q. Will you examine them and state whether they are true and accurate reproductions of Complainant's Exhibit 4 which you have identified as your statement?

A. Yes, they are accurate.

Mr. Sharp: Complainant now requests leave to substitute its Exhibits 4-A and 4-B for its Exhibit 4, being the original thereof, for the purpose of making it available for return to the maker.

115 Q. Had you ever met Mr. Harrington prior to the time that you were directed to his office by Mr. Crago and Mr. Rummel?

A. No. That was the first time I had ever met Mr. Harrington.

Mr. Harrington: I object to counsel's questions on the grounds that he is leading the witness, and to the words "directed by Mr. Crago and Mr. Rummel".

116 Q. Well, how did you come to select Mr. Harrington [fol. 689] as your attorney to represent you with reference to this injury?

A. Mr. Crago and Mr. Rummel directed me to Henslee & Henslee of which Mr. Harrington, he is one of the attorneys in that firm. But Mr. Crago was the one. He said, "You might have Mr. Harrington. I believe you will like him." I believe those are the words he used. He said, "I believe you will like Mr. Harrington. You might get him up there. I don't know." But the law firm was Henslee & Henslee.

117 Q. In the matter of your retaining counsel, was that the gist of the discussion held upon the occasion that you have recited into the record wherein Mr. Crago and Mr. Rummel first came to your home?

Mr. Harrington: I object to the question as it is leading and suggestive. I further object because of the fact that Mr. Troxtell has already testified as to the conversation had at his home between Mr. Crago and Mr. Rummel and himself.

118 Q. Now will you answer the question? If you don't understand it, he will repeat it to you.

A. I didn't understand it thoroughly, no.

(Question No. 117 was read to the witness by the Reporter.)

[fol. 690] A. They just suggested Legal Aid.

Mr. Harrington: I am objecting to any conversations with Mr. George Rummel on the basis that he is now deceased and he no longer can rebut same.

119 Q. You mentioned several times in the earlier part of your recitation of the facts under discussion that after

your injury you called Mr. Rummel on several occasions and that he was a griever of your Union. What is a griever?

A. I suppose he is the same as what they call a union steward, the best I can tell you. He is the local chairman is actually what it is, local chairman. He hears all the aches and pains and he is the griever. He is the local chairman. I suppose that's what his office would be.

120 Q. What was the purpose in your calling him on these occasions?

A. Well, that was who I was supposed to call, I mean to find out what to do and what not to do—different things like that.

121 Q. Did you follow his recommendation?

A. The best I could, yes, I followed his recommendation. He told me not to work, and I didn't. He told me to try [fol. 691] it, and I did. I generally went along with him.

122 Q. And he told you to go to Chicago and you likewise did that?

Mr. Harrington: I object to that, Counsel.

123 Q. You called for his advice and counsel with reference to this, right?

A. Right.

Mr. Sharp: No further questions.

Cross examination.

Questions by Mr. Robert E. Harrington:

124 Q. Mr. Troxtell, the day of your accident was June 13, 1959, is that correct?

A. Yes, that is right.

125 Q. When did you return to work? In other words, when did you finally return to work and work regularly, approximately?

A. Approximately I marked back up on the board and worked two nights before we settled with the company.

126 Q. During the time and the date of the settlement—do you recall the date of the settlement?

A. No, I don't. I can't recall the date.

[fol. 692] 127 Q. Would it be approximately April 28, 1960?

A. I believe so.

128 Q. During that time from June 13, 1959 to April 28, 1960, were you on furlough during any of that period of time, sir?

A. Yes. I was furloughed approximately about 15 days after I was injured. I believe I was furloughed.

129 Q. So you were on furlough for how many months approximately, if you can recall?

A. Well, let me see. It was close to six months, I believe, the best I can remember.

130 Q. When you are on furlough, that means there was not sufficient work for you to be able to work even if you were physically able, is that correct?

A. That is right.

131 Q. So that whether you had an injury or not, you would not have been able to work on the railroad?

A. No, I couldn't have been working on the railroad because I was furloughed.

132 Q. You came to my office on November 13, 1959. Is that approximately right?

A. Yes.

133 Q. I sent you to Dr. Turner's office for an examination [fol. 693], is that correct?

A. That is right.

134 Q. And some time after that examination did you receive a report from me as to the doctor's findings?

A. Yes, I did.

135 Q. On the first visit to my office, I explained to you that we would advance you some money if you needed it for living expenses, is that correct?

A. You did.

136 Q. And that is what I did, is that correct?

A. You did that.

137 Q. Or I should say the firm of Henslee & Henslee.

A. That's where the checks were made out.

138 Q. Prior to coming to our office you had obtained money from the railroad for the same purpose, is that correct?

A. That is right.

139 Q. Do you recall the amount that you had borrowed from the railroad?

A. Total you mean?

140 Q. Total.

A. Twelve hundred dollars.

141 Q. That was prior to coming to Chicago to see me?

A. Prior to seeing you.

[fol. 694] 142 Q. In December of 1959, approximately one month after you hired the firm of Henslee & Henslee as your attorneys, did you contact me and request that I make a settlement or attempt to make a settlement at that time?

A. That was before Christmas, I believe.

143 Q. Yes.

A. Yes, sir.

144 Q. Is it not a fact that I advised you at that time that I thought it was premature to make a settlement?

A. You told me it was a little too early, yes.

145 Q. Can you tell me approximately how many times you saw our doctors?

A. I made—well, two that I know of, two trips, I believe.

146 Q. And at the time that you came in and settled your case, is it not a fact that I advised you if you were still having trouble with your hand that you should follow our doctor's advice and have an exploratory operation?

A. You did that.

147 Q. And is it also not a fact that you asked me to settle your case at that time and, as a matter of fact, at the time you came into the office I had an offer already?

A. You told me that that morning, yes.

148 Q. Did you settle the case of your own free will, sir?
[fol. 695] A. That is right.

149 Q. In the settling of the case, was the case settlement pursuant to the contract that you had signed?

A. Yes.

150 Q. And on the basis of 25 per cent of the total settlement?

A. That is right.

151 Q. With deductions being made for what you had borrowed for living expenses from the railroad and from the firm of Henslee & Henslee?

A. That is right.

152 Q. And also what you had received from the Railroad Retirement Board under the Crosser Act?

A. Yes.

153 Q. At the time that Mr. Rummel advised you to mark off at work, you had also advised him that you could not climb a car?

A. That is right.

154 Q. And in climbing cars, is that necessary in your work as a railroad brakeman?

A. It definitely is, yes, sir.

155 Q. Had the railroad released you for work at that time, sir?

A. You mean after I was injured?

[fol. 696] 156 Q. Yes, sir.

A. And worked that few days?

157 Q. Yes, sir.

A. The doctor said that he thought I could go back to work. They couldn't find a break or anything and I asked about marking back up.

158 Q. And you went out and tried it?

A. And Mr. Rummel said, "Give it a try and see how it comes out."

159 Q. Then it was some time after that that they found the break?

A. I worked five days after that and it got so painful, I had to take off. They found the break after the second cast was taken off.

160 Q. You did not have a cast on your hand at the time that the doctor told you to try to work, did you?

A. No. There never had been a cast on it yet, just rubber around it.

(Defendants' Exhibit No. 1 was marked for identification by the Reporter.)

161 Q. Mr. Troxtell, I show you what has been marked Defendants' Exhibit 1 for identification and ask you if your [fol. 697] signature is on that instrument?

A. Yes, that's my signature on it.

162 Q. What is that instrument, Mr. Troxtell?

A. I don't fully understand it. You explained it to me

at the time. I remember it well, but I don't thoroughly understand it.

163 Q. Have you read this instrument?

A. Yes, I read it then, yes. You explained it to me up there.

164 Q. To refresh your recollection, Mr. Troxtell, you testified here that you came to Chicago approximately November 13?

A. Yes.

165 Q. And did you prior to November 13 send a letter to the Department of Legal Counsel in Cleveland requesting the Brotherhood of Railroad Trainmen to represent you?

A. Did I send the letter?

166 Q. Yes.

A. I will have to have a little time to think on that. That is something that has just completely slipped my mind, whether I did or whether I didn't. It's real hazy, but I did send a letter. I believe I did. There was a form or something, or I filled out a form or sent a letter.

167 Q. Defendants' Exhibit 1 for identification bears [fol. 698] your signature, is that correct?

A. Yes, that is right.

Mr. Harrington: I offer this into evidence as Defendants' Exhibit 1.

Mr. Sharp: The Complainant would like to ask some preliminary questions with reference to it.

Preliminary questions by Mr. William T. Sharp:

168 Q. In answer to Mr. Harrington's question about the exhibit, you stated that he, Mr. Harrington, went over it with you and explained it to you, is that correct?

A. At the time, he explained to me what this form was, what it was for and everything.

169 Q. Will you just recite in the record what that explanation was?

A. Well, that's what I say now that I actually don't understand it. At the time, I did. But it was for the BRT, the best I can remember now, to make an investigation of my accident at the Hawthorne Yards. And the best of my

knowledge, I believe I was told to write a letter to them requesting that.

170 Q. Who told you to do that?

A. Mr. Harrington did, I believe. To the best of my [fol. 699] knowledge, that is right.

171 Q. Do you know how to use a typewriter?

A. No, I don't.

172 Q. Did you type that letter up?

A. This letter here.

173 Q. Yes.

A. No, I didn't type this.

174 Q. Do you know who did?

A. I haven't the slightest idea who typed it.

175 Q. Did you ever see it prior to the time that you have referred to Mr. Harrington having explained it to you?

A. I signed this; that I know.

176 Q. When and where?

Mr. Harrington: If you know.

177 Q. (continuing) Yes, if you know.

A. Well, now, just to be honest, I don't know. I know the occasion. I don't know where it was at. Whether it was in my home and whether somebody brought it there, that I can't remember. That's the truth. I can't.

Mr. Sharp: The Complainant would object to it becoming part of this record: (1) on the grounds as not having been identified and (2) on the grounds that it is self-serving [fol. 700] for the defendant under the issues here enjoined, and (3) that it would have no probative value under the issues here enjoined.

Mr. Harrington: I will ask that Defendants' Exhibit 1 be introduced into the record and the word "identification" be stricken from the exhibit and leave to substitute photostatic copies of said instrument in lieu of the original.

Mr. Sharp: Objections for the reasons stated.

Mr. Harrington: I submit herewith photostatic copies and move they be made a part of the record and attached to the original and copies of this deposition.

Cross examination, resumed.

Questions by Mr. Robert E. Harrington:

178 Q. Mr. Troxtell, this instrument that you identified having your signature thereon was dated November 12, 1959, is that correct?

A. That is right.

179 Q. If you came to Chicago on November 13, 1959, you had not seen me until you came to Chicago, had you, sir?

A. Definitely not.

180 Q. Would that refresh your recollection as to whether [fol. 701] or not I gave you that statement or that letter?

A. This letter here?

181 Q. Yes.

A. The best of my knowledge, you didn't. But I don't remember where I signed it. But you didn't give it to me is the best I can remember.

182 Q. Thank you, sir. When you came to Chicago, did the firm of Henslee & Henslee—well, first, your intentions were to hire us as your attorneys in the handling of this case, is that right?

A. That is right.

183 Q. I believe you testified that you were on furlough during some of the months that you were off of work during the pendency of this claim, is that right?

A. That is right.

184 Q. And you testified what you meant by the word "furlough", that there was no work?

A. No work available.

185 Q. You were the first person to contact Mr. Rummel concerning your accident so far as you know, is that correct, sir?

A. That is right.

186 Q. And when you contacted him you sought advice from him as your local chairman?

[fol. 702] A. That is right.

187 Q. And Mr. Crago who visited you with Mr. Rummel, he was also from the legal counsel's office; in other words, he was an investigator, is that correct?

A. I believe so.

188 Q. And he advised you under the Federal Employees' Liability Act?

A. Yes.

189 Q. And after his visit, you discussed that with your wife?

A. Yes.

190 Q. And that is when you decided you would come to Chicago, is that correct?

A. That is right.

191 Q. You further testified on direct examination that a Mr. Scanlan from the American Association of Railroads came to your house?

A. That is right.

192 Q. And that was approximately March 23, 1961?

A. That is right.

193 Q. Did Mr. Scanlan show you any credentials, sir?

A. Other than his card that he gave me, that he left.

194 Q. He left a card with you?

A. Yes, with his name on it and address.

[fol. 703] 195 Q. Did it show where he was from?

A. It said American Association of Railroads, I believe, the best I can remember.

196 Q. Did he tell you who sent him to see you?

A. Who sent him?

197 Q. Yes, sir.

A. He didn't specify it, I don't believe. He said, "I am here to see if I can get a statement," is what he said.

198 Q. Did he tell you the purpose of his taking the statement, sir?

A. Yes, I believe he did.

199 Q. What did he tell you?

A. I believe he said it was something to do with chasers, —ambulance chasers, as he put it—it was to put them out of business, I believe he said.

200 Q. Did he take this statement that has been marked Complainant's Exhibit 4?

A. Yes. He took it down in my home there.

201 Q. Did you write this statement out in longhand, or did he?

A. He wrote it out.

202 Q. I notice, Mr. Troxtell, that you have in your hand a card. Is that the card that you referred to that Mr. Scanlan left?

[fol. 704] A. That's the one he left. That's a receipt on the back for one of these exhibits, I believe, and that breakdown there that he wanted to borrow. I think it is a receipt to show that he has it.

203 Q. Was the breakdown sheet of the settlement in the letter from the firm of Henslee & Henslee ever returned to you, sir?

A. No, it never was.

Mr. Harrington: I will ask leave to have this marked for identification as Defendants' Exhibit No. 2.

(Defendants' Exhibit No. 2 was marked for identification by the Reporter.)

204 Q. I show you what has been marked for identification Defendants' Exhibit No. 2 and ask you if this is the card that you speak of?

A. Yes, this is the card that Mr. Scanlan left at my home.

Mr. Harrington: I will now offer it into evidence as Defendants' Exhibit No. 2.

Mr. Sharp: No objections.

205 Q. You testified, I believe, that Mr. Scanlan wrote [fol. 705] out this statement, is that correct, sir?

A. That is right.

206 Q. Consisting of approximately ten pages?

A. Ten pages.

207 Q. How long did it take Mr. Scanlan to write out this statement, if you recall, approximately?

A. I think I can tell you exactly. I think it took two hours and 15 minutes.

208 Q. This was in your home?

A. That is right.

209 Q. Your wife was present?

A. Yes.

210 Q. Was it during the day or nighttime?

A. It was during the day.

211 Q. Did he reimburse you for your time?

A. No.

212 Q. Did he at any time offer you anything for giving the statement?

A. Nothing.

213 Q. Were you given a subpoena to appear here to testify in this deposition?

A. So far as I know, I wasn't, unless that was what I read the other day that you brought to the house. If that [fol. 706] was a subpoena, that was it. But so far as I know, I wasn't subpoenaed, no.

214 Q. Did you read the paper that you refer to?

A. Yes, I read it.

215 Q. Do you recall what that paper said, sir?

A. It just told the time that the wife and I was to appear down here for the purpose of the State of Virginia and so forth.

216 Q. Has anyone agreed to reimburse you for your loss of time today, sir?

A. I haven't been approached.

217 Q. Did you have to mark off from work to appear here?

A. No.

218 Q. Are you working at the present time?

A. Yes.

219 Q. For whom?

A. Pennsylvania Railroad.

220 Q. Are you on the extra board?

A. Regular job.

221 Q. What are your hours of work?

A. It's all the third trick, 12 o'clock at night until 7:00 in the morning.

222 Q. So you worked until 7 o'clock this morning? [fol. 707] A. No. I was off Tuesday and Wednesday. I go to work tonight.

223 Q. Those are your regular days off?

A. Yes.

224 Q. Do you expect to be reimbursed for your time and expense for attending this deposition?

Mr. Sharp: Let the record show an objection on the ground that his expectation is of no probative value here nor would his expectation in any way alter the truth or accuracy of the matter herein under discussion.

225 Q. You may answer, Mr. Troxtell.

A. Answer the question?

226 Q. Yes, sir.

A. No, I don't expect it.

227 Q. No one has indicated that you will be reimbursed for your lost time or your expenses?

A. No.

228 Q. And no one has indicated that you would be reimbursed for your lost time in connection with the statement that Mr. Scanlan took?

A. No.

[fol. 708] 229 Q. Did you only see Mr. Scanlan on the one occasion?

A. Twice. He came back again after that.

230 Q. When did he come back again the second time?

A. Oh, it was approximately, maybe three weeks to a month, maybe. I don't know exactly when it was.

231 Q. From this date?

A. From the day I made this statement, he came back again.

232 Q. What was the purpose of that trip?

Mr. Sharp: Show an objection on the ground that whatever subsequent visits or the purposes thereof that Mr. Scanlan might have made, would not in any way tend to prove or disprove any of the material facts joined by the issues herein.

233 Q. You may answer the question. What was the purpose of his visit?

Mr. Sharp: If you know.

A. The purpose of it was to re-initial something in the statement. And he asked me if I would make a deposition for the State of Virginia.

234 Q. By "re-initial" what do you mean, sir?

A. There was something in the statement that had been—
[fol. 709] where he had put it down differently or some-

thing. It didn't mean the same thing. You might find it in there, I don't know.

235 Q. Will you look through the statement and see if you can find it for me?

A. But I re-initialed it that day. It was just a little bobble of some kind, to the best of my knowledge, that I re-initialed.

236 Q. Would the original help you better than the photostat?

A. No, I believe that I can find it. The only place I can find that I re-initialed—see, at the time he explained to me what it was. Just now I can't tell you just why it was re-initialed unless it was a misspelling, or what the purpose was.

237 Q. You are referring to Page 4 of the statement, the fourth line from the bottom, is that correct?

A. That is right.

238 Q. Can you read that line?

A. If I recall correctly McCamman—and he has had rode on a pass which has been, I re-initialed that. That's the only one that I can find.

239 Q. I show you Page 8 of this statement and ask you if you made any corrections on that page at that time, sir? [fol. 710] A. Yes. Here is a correction here re-initialed.

240 Q. Do you know what correction was made, sir?

A. We returned to Indianapolis at—

241 Q. You can't read it?

A. I can't read what it has been.

242 Q. I show you the bottom line on Page 8, sir. Was that correction made at that time?

A. I know nothing about that one there.

243 Q. In other words, you never saw that correction made there?

A. I never initialed that, no.

244 Q. At the time that you signed the statement, did you see these figures on this instrument?

A. Some of this is very difficult to read. But this is it.

245 Q. That is a correction that has been made that you did not know of, is that correct?

A. I did not initial that, no.

Mr. Harrington: I now make a further objection to the statement that has been offered in regard to Complainant's Exhibit No. 4, objecting to it being admitted into evidence on the grounds that there are corrections on the face of the instrument which the witness has testified he has not made said corrections and did not know of same, and ask that [fol. 711] the entire statement be stricken from the record.

246 Q. On this second visit from Mr. Scanlan, you stated that he asked you if you would appear for a deposition, is that correct?

A. For the State of Virginia, yes.

247 Q. And you agreed to do it at that time?

A. Yes. He asked me if I knew what a deposition was, what it actually meant. And he said that it was making this statement under oath.

248 Q. And you agreed to do that, sir?

A. Yes.

249 Q. At that time he did not tell you that you would be reimbursed for your time?

A. The best I remember, he didn't say anything to me about any payment or anything. I didn't expect it, as I said.

250 Q. When Mr. Scanlan took this statement on March 23, 1961 were these your exact words, or were these the words that he wrote down, or can you tell us how you gave the statement?

A. To the best of my knowledge, I tried to tell it from the day I was injured until the day I settled. To the best of my knowledge, he asked some of the exact words that certain people said and I tried to recall them. That's the [fol. 712] best of my knowledge what happened.

251 Q. He more or less led you through the statement, is that correct?

A. Yes.

252 Q. As to how he wanted it down?

A. Yes, with questions just like now.

253 Q. Do you have a family, Mr. Troxtell?

A. I have a wife and a stepdaughter.

254 Q. And the money that you borrowed from the railroad and also from the firm of Henslee & Henslee was

toward your support and your family's support while you were off of work?

A. That is right.

255 Q. And if you had not received that financial assistance, what would you have done, sir?

A. That I don't know.

256 Q. Could you have maintained your home?

A. Not by working, I couldn't.

Mr. Harrington: I have no further questions.

Redirect examination.

By Mr. William T. Sharp:

257 Q. In the course of the cross examination and your answering questions asked you by Mr. Harrington, in re-[fol. 713] ferring to the doctors who saw you in Chicago, his questions referred to them as "our doctors". Now did you testify that you had, prior to your trip to Chicago, been under the treatment of Doctors White and Brady of this city?

A. Yes.

258 Q. And the doctors, then, that you saw in Chicago, what was the purpose of your seeing them?

A. Well, I suppose it was for the medical aid for my hand? I had been examined. They examined my hand.

259 Q. For examination or aid?

A. Well, examination.

260 Q. They were not your doctors?

A. No.

261 Q. And at whose direction did you go to those doctors?

A. Why, Mr. Harrington is the one who sent me to Dr. Turner's clinic.

262 Q. With reference to Defendants' Exhibit 1, Mr. Harrington asked you specifically with reference to the date that is shown on it?

A. Yes.

263 Q. This date shown on the instrument being November 12. Do you have an independent recollection that the date that you signed it was in fact on November 12?

[fol. 714] A. No, I don't. All I know is that I did sign this. In whose presence I still don't know.

264 Q. Nor where?

A. Nor where. I still don't know.

265 Q. On cross examination Mr. Harrington asked you if when you came to Chicago the first time it was not your intention to retain his law firm, that being Henslee & Henslee, to represent you in your injury. And you answered, "Yes." Will you state for the record when you first conceived that intention to go to Chicago for the purpose of retaining Mr. Harrington's firm to represent you?

A. Well, that was in my home after Mr. Crago talked to me about their clinic up there and some of the doctors they had for my hand.

266 Q. Referring now to Complainant's Exhibit No. 4, on cross examination you indicated to Mr. Harrington that there were certain changes in that statement from the time you gave it until its condition as you presently examine it. Will you start from the beginning and read the statement into the record pointing out any part thereof that is at variance with the statement that you gave Mr. Scanlan?

[fol. 715] Mr. Harrington: I object to it being read into the record as it has been introduced over objections here. And if it is read, I object and request that it all be stricken from the record by the Court.

A. Now read it? Is this where I would initial it?

267 Q. A to Z.

A. Read the whole thing?

268 Q. Yes, pointing out any part of it that is not yours.

A. Indianapolis, Indiana. March 23, 1961.

My name is Lawrence E. Troxtell, age thirty-nine. I live with my wife and stepdaughter at 1209 Olive Street, Indianapolis, Indiana. I am employed as a brakeman by the Pennsylvania Railroad, Indianapolis, Indiana and am presently on furlough.

I sustained an injury to my left hand on June 13, 1959—

269 Q. Are you unable to read the word?

A. I can't read that word— . . . which I was off work for several months. During the period I was off work with the injury my hand was in a cast. I was treated medically so

the expense of the Pennsylvania Railroad who also during this period loaned me money on which to support my family. [fol. 716] When I was first injured I reported the injury to George P. Rummel, now deceased but who was then Griever of Local 261, Indianapolis, Brotherhood of Railroad Trainmen of which I am a member. Rummel instructed me to mark off duty which I did. Following the marking off doctors had a difficult time getting to the base of my injury. Finally the cause of the pain I had been suffering was found to be a hairline fracture at the base of my left thumb. The fracture was not found until some time in October or November 1959.

After finding the fracture I called George Rummel and reported the fracture and to let him know what progress I was making with the hand. The day I called Rummel he told me that it had been a long time before they found the trouble and that I was to sit tight as someone, meaning the Pennsylvania Railroad, was going to pay for that. As near as I can recall it was either late October or early November 1959 that I called Rummel relative to finding the fracture.

About ten days later Rummel and a man named Bob, Robert Crago, from the New York Central Railroad and Legal Aid of the Brotherhood of Railroad Trainmen came [fol. 717] to my home to see me. At that time I lived at 1228 Beecher Street, Indianapolis, Indiana. They called during the morning and during the first call Crago told me that the Legal Aid of the Brotherhood of Railroad Trainmen had attorneys in Chicago who would see that I got a fair deal in settling the claim I had against the railroad. Crago told me that the—I can't read that.

Mr. Harrington: Let the record so show.

270 Q. The word you cannot make out is on what page?

A. Page 3, line 5.

271 Q. The last word?

A. The last word on line 5 and the first word on line 6. ... see to it that I received medical care in Chicago at no cost to me. Crago told me that, no doubt, an attorney named Bob Harrington would handle my case and that he was sure that I would like him.

I told Crago that I wasn't interested in—I can't make too much of this out here.

Mr. Harrington: Let the record show that he is unable to read line 14, Page 3, the words after "interested in".

[fol. 718] A. Yes. And the next three words the same line.

272 Q. Resume where you can make it out.

A. . . . the Pennsylvania Railroad was loaning me money and that I needed the loan to live on. Crago told me that the attorneys in Chicago would do the same thing for me and all I would have to do was call them when I needed money.

Rummel and Crago were at the house about two hours. Crago did the talking and explained how the Legal Aid worked—I can't make the next words out.

Mr. Harrington: Let the record show that the witness is unable to read the last two words in line 4 from the bottom of Page 3.

A. And the first word in line 3.

273 Q. Resume where you can make it out.

A. . . . I would be taken care of by the Chicago Legal Aid attorneys.

He explained it would cost me 25 per cent of—that word can't be made out.

Mr. Harrington: Let the record show the witness cannot read the word on Page 4, line 1, after the word "of".

[fol. 719] A. . . . settlement was made and how all my expenses in going to Chicago would be paid by the attorneys. I told Crago I would have to think it over and Crago told me that Rummel would be back to see me. About a week or so later, Rummel came back to see me. I agreed to go to Chicago with him just to talk to the Legal Aid attorneys.

About three days later I was picked up at my home by Rummel and we drove to the Union Station where we took a train on the Pennsylvania Railroad to Chicago. I did not have a pass and Rummel bought a ticket and paid for it out of his pocket, to Chicago. Before train time Rummel went out and picked up a Roy McGamman, a Penn-

sylvania employee, who had suffered a broken leg in a train injury. If I recall correctly McGamman rode—and there is a correction where I initialed it—on a pass.

We arrived in Chicago at night and my recollection is the date was November 9, 1959. Rummel took us in a taxi to the Planters Hotel. At the Planters Hotel the clerk on the desk gave me a card to sign on the top of which was the words Henslee & Henslee. It was a printed card. I signed the card but do not recall signing—and I can't make [fol. 720] out the next word.

Mr. Harrington: Let the record show that the witness is unable to read on Page 5, line 8, the first word.

A. . . . hotel registration card. I think my room was 217—and I can't read the next word.

Mr. Harrington: Let the record show the witness is unable to read line 9, the word after "217".

A. . . . I was alone in the room. Rummel and McGamman took a double room. So far as I know Henslee & Henslee paid the hotel bill, I didn't. I was there only the one night.

The following morning Rummel and McGamman met me in the lobby of the hotel and we went to the office of Henslee & Henslee. Rummel took me into Bob Harrington's office and introduced me to Harrington. Harrington questioned me about my injury, how it happened and so forth. I expect I talked to Harrington about an hour. Among other things, I mentioned to Mr. Harrington that Crago had told me I could receive loans from the attorneys and Harrington told me they did loan money to—and there is a correction [fol. 721] tion there and I initialed it.

Mr. Harrington: What is the word?

The Witness: The word cannot be made out. It is marked out and re-initialed.

Mr. Harrington: Let the record so show.

A. . . . who needed money. Harrington also told me he would send me to a doctor who would examine me but that after I returned to Indianapolis I was to insist that the rail-

road doctors take care of the hand. I signed a contract retaining Henslee & Henslee for a fee of 25 per cent of whatever settlement was made with the railroad.

Rummel took both McCamman and me to see a Dr. Turner. I was given a complete physical but was not advised about my injury. I do not know the name of the doctors who examined me. They were Orientals. Three separate Oriental doctors seen me. On my next trip I met Dr. Turner.

I—that word can't be made out after I.

Mr. Harrington: Let the record show the witness is unable to read the second word in line 8 from the bottom of Page 6.

[fol. 722] A. . . . wasn't given a report by the doctors. I was told they would send the report to my attorney. McCamman went through the same process as I did in Dr. Turner's office. I was in the doctor's office about two hours.

Rummel then told McCamman and I—

Mr. Harrington: Let the record show the witness is unable to read the next to the last word from the bottom of Page 6.

274 Q. Wait a minute. Now are you unable to read anything?

A. No. I looked at it wrong. I can read it.

. . . the doctor's office about two hours.

Rummel then took McCamman and I to the Berghoff for dinner and following dinner to the Illinois Central Station where we caught the train to Indianapolis.

While we were in Dr. Turner's office Rummel checked—and there is a word marked out and re-initialed.

Mr. Harrington: Can you read the word?

The Witness: I can't read the word.

Mr. Harrington: Let the record so show.

A. . . . Rummel checked McCamman and me out of the Planters Hotel. On the train back to Indianapolis Rummel [fol. 723] talked to the conductor—no, talked the conductor into; the words "out of" being marked out and that has been re-initialed and put "into"—honoring the Pennsyl-

vania passes he and McCamman had and Rummel paid the conductor a cash fare for me.— That's the best I can do.— We rode in a car on the head end of the James Whitcomb Riley on which there were several other men dead-heading back to Indianapolis.

I again saw Harrington in Chicago in February 1960 when I went with my wife to Chicago. Mrs. Troxtell and I drove with George Agel, President of Local 261. Rummel had been killed in a train wreck near Cleveland, Ohio a few days prior to our trip to Chicago and Agel was taking over for Rummel. Harrington had called to tell me he wanted me in Chicago for another check-up by the doctors. Roy McCamman also went with us in Agel's car. We stayed at the Planters Hotel. Mrs. Troxtell and I were assigned to the same room I had had on my first trip. Again I signed the same type of Henslee & Henslee card at the hotel. I do not recall if I registered for Mrs. Troxtell or not.

The next day I saw Harrington and was sent to Dr. Turner. This time I saw Dr. Turner. He didn't give me any sort of treatment nor advise me what to do. We returned [fol. 724] to Indianapolis the—and "next" has been stricken out and written above it is "same", and I have initialed it.

We returned to Indianapolis the same day. Harrington complained to Agel because I had brought Mrs. Troxtell. Harrington—then I can't make out the next word.

Mr. Harrington: Let the record so show that the witness cannot read the first word of line 12 from the bottom of Page 8.

A. . . . it an unnecessary expense and I told Harrington that Crago had told me it was all right for me to take my wife. Henslee & Henslee ended up paying my wife's expenses. Agel took us back home.

After the second trip to Chicago I became impatient for settlement. I had been borrowing money from Henslee & Henslee. I had been getting—now I didn't initial this one place here. "Two fifty" has been stricken out.

Mr. Harrington: Let the record so show that the witness has testified that he did not initial the correction that was made on the bottom line of Page 8.

[fol. 725] 275 Q. What is the statement? What does it say, if you know?

A. I have been getting \$250 loan—that's the best I can tell you. Then it's been stricken out and it looks like "100" before it. And as far as I can see, I never initialed that unless it's been initialed over again. I can't see it.

276 Q. This being your statement, what is the fact as to how much it was?

A. A hundred dollars is what it should be, I believe. I had been getting a hundred dollar loan every three weeks ... that is very difficult to say and they weren't all the same at no time.

Mr. Harrington: Now this is testimony, not what you are reading, is that right?

The Witness: That is right. I have no way at all of reading that correctly, that one line.

277 Q. So that if this statement which you are reading from shows 250, is that incorrect?

A. Yes, that is incorrect. I don't think at any time I received a loan of two-fifty from Henslee & Henslee.

278 Q. And the correct fact with reference to your loans would be what figure?

[fol. 726] A. Well, that's what I say I couldn't average it, because I got three or four loans and they were all different. I had a loan at one time of \$200 and another one, I believe, of a hundred, and I just can't say. They were around \$100, maybe a hundred and a quarter at one time. I couldn't say. Without the records, I couldn't say. But it wouldn't be two-fifty, any loans of two-fifty.

279 Q. When Mr. Scanlan was there at that time, at the time this statement was taken, did you have any discussion with him with reference to changing this figure in the last line of Page 8?

A. If I talked to him and went over it, I don't know. The fact is I didn't initial it. Every time we came across something we initialed it and he stopped me. I don't recall initialing this one. I can't find it. I might have made this statement. I was getting that much at times from the Pennsylvania Railroad. This is testimony now, from the Pennsylvania Railroad which might have confused me when he

asked me about loans from Henslee & Henslee. I was getting loans sometimes that big from the railroad but mostly \$200. We might have went over that, but I can't find where I initialed it at, so I couldn't say.

[fol. 727] Q. Well, now, following that statement you have made about the figure on the last line of Page 8, will you continue reading the statement if you can?

A. I am reading now.

... loans every three weeks from the Henslee firm and when Mrs. Troxell was in Chicago with me—she has initialed that—Harrington told me—and “her” has been marked out and she put “me” in there and she has initialed that—she should keep a family on \$200 per month. —

Finally in April I had Robert Carrico who had taken over Rummel's job as griever, call Harrington to tell him I wanted—I can't make the two words out after “wanted”.

Mr. Harrington: Let the record so show that the witness cannot read the two words on line 8, the last two words on line 8, Page 9.

A. ... not so much for money but to get medical attention for my hand. Carrico told him I wanted either the money or my hand fixed or the money so I could find a doctor on my own. Harrington told Carrico to have me go back to work at least one day, this in order to pass the physical [fol. 728] and work at least one day. I went back to work—the next word can't be made out clearly.

Mr. Harrington: Let the record show that the witness is unable to read the first word of line 10 from the bottom of Page 9.

A. ... three or five days. My hand was still paining and I signed off again. I settled my case in Chicago April 28, 1960 in Harrington's office. In the final settlement I received \$5,500 of which I paid an attorney fee of \$1,375. I repaid \$550 which Henslee & Henslee had loaned me. Also from the settlement I repaid the Pennsylvania Railroad \$1,200 I had—I can't make it out.

Mr. Harrington: Let the record show the witness is unable to read in line 1, Page 10, the word after “I had”.

A. . . . from them and \$75.40 loan from Railroad Retirement. I received a check from the Henslee firm for \$2,303.60 which was less than the wages I had lost.

I have read the following statement of ten—I can't make the next two words out.

[fol. 729] Mr. Harrington: Let the record show the witness is unable to read the third and fourth words in line 7 from the top of Page 10.

A. . . . pages and the same is true to the best of my recollection and belief.

Lawrence E. Troxtell—and it is also signed by Virginia L. Troxtell.

281 Q. Now, Mr. Troxtell, with the exception of the figure which appears on the last line of Page 8, which you have been unable to make out, does what you have read constitute accurately the statements that you made to Mr. Scanlan the date that this statement was reduced to writing?

A. To the best of my knowledge from the time expired, that's the best I can remember what I made.

282 Q. This is accurately what you told him at that time and place?

A. Yes, at the house outside of this right here. This right here, there is controversy on that.

283 Q. And you have already explained why you are unable to show one definite figure there?

A. Yes.

[fol. 730] 284 Q. And when you first started to testify today, you were referring to a written instrument which was, in fact, one of the photostatic copies of this Exhibit 4?

A. Yes.

285 Q. You were refreshing your memory from that when Mr. Harrington objected, is that right?

A. That is right.

Mr. Sharp: No further questions.

Recross examination.

Questions by Mr. Robert E. Harrington:

286 Q. Mr. Troxtell, the photostatic copy of the statement that you have just been reading from, when did you first receive that photostatic copy?

A. Yesterday, I believe.

287 Q. And from whom did you receive it?

A. Mr. Sharp.

288 Q. Is it not a fact that the first time that you found out that you had a fracture in your hand was in October or November of 1959?

A. I believe it was somewhere near that date.

289 Q. And the accident happened in June?

A. In June, yes.

[fol. 731] 290 Q. And you had been under the care of the company doctors up to that time?

A. Up to that time, yes.

291 Q. And after you saw the doctors in Chicago, were you not advised to remain under the care of the company doctors?

A. Yes.

292 Q. And one of the reasons for coming to Chicago, was it not, was to see other doctors than company doctors?

A. Other doctors than company doctors?

293 Q. Yes.

A. That is right. I wanted to see other doctors.

294 Q. Did you tell Mr. Scanlan when he took this statement from you that after Mr. Crago had visited you at the house that you and your wife had discussed the matter and you had agreed to come to Chicago?

A. I don't think it is in the statement that I told him that, or not. But if he asked me that, I told him.

295 Q. Did he put everything you told him in that statement?

A. Well, yes, everything that I told him is in there. I told him no more.

296 Q. You told him nothing else other than what is in the statement?

A. That's it right there. That's the statement to Mr. [fol. 732] Scanlan. That's all he asked for; that's all he got.

297 Q. On the date of March 23, 1961 when the statement was taken, you read that statement over, is that correct? A. Yes.

298 Q. And you signed it on that date?

A. I signed it that day.

299 Q. And your wife signed it on that day?

A. She did.

300 Q. Then it was three or four weeks later that he came back to have these corrections made?

A. I re-initialed one more place.

301 Q. At the time that you read it, were you able to read his writing at that time?

A. It was just like it was today.

302 Q. Were you able to read it and understand it when you signed it?

A. I understood it because I had just made the statement. There are a lot of words in there now that I understood then but I just can't read them in that statement now.

303 Q. The condition of your eyes has not changed since that time?

A. No.

[fol. 733]: Mr. Harrington: That is all.

Mr. Sharp: No further questions.

And Further Deponent Saith Not.

(Signature Waived.)

[fol. 734] Notary's certificate (omitted in printing).

386

[fol. 736]

COMPLAINANT'S EXHIBIT #1

(Letterhead of Henslee & Henslee, Chicago 2, Illinois)

February 15, 1960

Mr. Lawrence E. Troxtell
1228 Beecher Street
Indianapolis 3, Indiana

Dear Mr. Troxtell:

Pursuant to your request I am forwarding a loan check
in the amount of \$100.00.

I have not received my medical report from Dr. Turner,
however, upon receipt of same I will write you directly.

Very truly yours,

HENSLEE & HENSLEE

/s/ ROBERT E. HARRINGTON
Robert E. Harrington

REH/sg
enc

[fol. 737]

COMPLAINANT'S EXHIBIT #3

April 28, 1960

LAWRENCE E. TROXTELL

vs.

THE PENNSYLVANIA RAILROAD COMPANY

| | | |
|---------------------|------------|------------|
| SETTLEMENT | | \$5,500.00 |
| Railroad Loan | \$1,200.00 | |
| Railroad Retirement | 71.40 | |
| | <hr/> | <hr/> |
| RAILROAD CHECK | | \$4,228.60 |
| Loans | \$ 550.00 | |
| Fee | 1,375.00 | |
| | <hr/> | <hr/> |
| | \$1,925.00 | |
| CHECK TO CLIENT | | \$2,303.60 |

Lawrence E. Troxtell

[fol. 738]

COMPLAINANT'S EXHIBIT #4

Indianapolis, Indiana
March 23, 1961

My name is Lawrence E. Troxtell, age 39. I live with my wife and step-daughter at 1409 Olive St., Indianapolis, Indiana. I am employed as a brakeman by the Pennsylvania Railroad, Indianapolis, Indiana and presently on furlough.

I sustained an injury to my left hand on June 13, 1959 following which I was off work for several months. During the period I was off work with the injury my hand was in a cast. I was treated medically at the expense of

the Pennsylvania Railroad who also during this period loaned me money on which to support my family.

When I was first injured I reported the injury to George P. Rummel, now deceased but who was then griever of Local 261, Indianapolis Brotherhood of Railroad Trainmen of which I am a member. Rummel instructed me to mark off duty which I did. Following the marking off Doctors had a difficult time getting to the base of my injury. Finally the cause of the pain I had been suffering

L. E. T.

[fol. 739]

page 2. Troxtell.

was found to be a hair line fracture at the base of my left thumb. The fracture was not found until sometime in October or November 1959.

After finding the fracture I called George Rummel and reported the fracture and to let him know what progress I was making with the hand. The day I called Rummel he told me that it had been a long time before they found the trouble and that I was to sit tight as someone, meaning the Pennsylvania R.R. was going to pay for that. As near as I can recall it was either late October or early November, 1959 that I called Rummel relative to finding the fracture.

About ten days later Rummel and a man named Bob (Robert) Crago from the New York Central Railroad and Legal Aid of the Brotherhood of Railroad Trainmen came to my home to see me. At that time I lived at 1228 Beecher St., Indianapolis, Ind. They called during the morning and during the first call Crago told me that the

L. E. T.

[fol. 740]

page 3. Troxtell

legal aid of the Brotherhood of Railroad Trainmen had attorneys in Chicago who would see that I got a fair deal in settling the claim I had against the Railroad. Crago told me that the attorneys would see to it that I received medical care in Chicago at no cost to me. Crago told me that no doubt an attorney named Bob Harrington would handle my case and that he was sure that I would like him.

I told Crago that I wasn't interested in an attorney as the Pennsylvania Railroad was loaning me money and that

I needed the loans to live on. Crago told me that the attorneys in Chicago would do the same thing for me and all I would have to do was call them when I needed money.

Rummel and Crago were at the house about two hours. Crago did the talking and explained how the legal aid worked and how well I would be taken care of by the Chicago legal aid attorneys.

He explained it would cost me 25% of whatever settle-
L. E. T.

[fol. 741] page 4. Troxtell

ment was made and have all my expenses in going to Chicago would be paid by the Attorneys. I told Crago I would have to think it over and Crago told me that Rummel would be back to see me. About a week or so later Rummel came back to see me I agreed to go to Chicago with him just to talk to the legal aid attorneys.

About three days later I was picked up at my home by Rummel and we drove to the Union station where we took a train on the Pennsylvania Railroad to Chicago. I did not have a pass and Rummel bought a ticket and paid for it out of his pocket, to Chicago. Before train time Rummel went out and picked up a Roy McGammon, a Pennsylvania employee who had suffered a broken leg in a train in-
LT

jury. If I recall correctly McGammon rode on a pass.

We arrived in Chicago at nite and my recollection is
L. E. T.

[fol. 742] page 5. Troxtell

the date was November 9, 1959. Rummel took us in a Taxi to the Planters Hotel. At the Planters Hotel the Clerk on the desk gave me a card to sign on the top of which were the words Henslee & Henslee. It was a printed card. I signed the card but do not recall signing any hotel registration card. I think my room was 217 and I was alone in the room. Rummel and McGammon took a double room. So far as I know Henslee & Henslee paid the hotel bill, I didn't. I was there only the one night.

The following morning Rummel and McGammon met me in the lobby of the hotel and we went to the offices of

Henslee & Henslee. Rummel took me into Bob Harringtons office and introduced me to Harrington. Harrington questioned me about my injury, how it happened etc. I expect I talked to Harrington about an hour. Among other things I mentioned to Mr. Harrington that Crago had told me I could receive loans from the attorneys and Harrington
L. E. T.

[fol. 743]

page 6. Troxtell

LT

told me they did loan money to clients who needed money. Harrington also told me he would send me to a Doctor who would examine me but that after I returned to Indianapolis I was to insist that the Railroad Doctors take care of the hand. I signed a contract retaining Henslee & Henslee for a fee of 25% of whatever settlement was made with the Railroad.

Rummel took both McCammon and me to see a Dr. Turner. I was given a complete physical but was not advised about my injury. I do not know the name of the Doctors who examined me. They were Orientals. Three separate Oriental Doctors saw me. On my next trip I met Dr. Turner.

I wasn't given a report by the Doctors. I was told they would send the report to my attorney. McCammon went through the same process as I did in Dr. Turners office. I was in the Doctors office about two hours.

Rummel then took McCammon and I to the Bergoff
L. E. T.

[fol. 744]

page 7. Troxtell

for dinner and following dinner to the I. C. station where we caught the Train to Indianapolis.

While we were in Dr. Turner's office Rummel checked

LT

both McCammon and me out of the Planters Hotel.

On the train back to Indianapolis Rummel talked the
into LT

Conductor out of honoring the Pennsylvania Passes he and McGammon had and Rummel paid the conductor a cash fare for me. We rode in a car on the head end of the

James Whitcomb Riley on which there were several other men dead heading back to Indianapolis.

I again saw Harrington in Chicago in February 1960 when I went with my wife to Chicago. Mrs. Troxtell and I drove with George Agel, President of Local 261. Rummel had been killed in a traip wreck near Cleveland, Ohio, a few days prior to our trip to Chicago and Agel was taking over for Rummel. Harrington had called to tell me he wanted me in Chicago for another check up by the Doc-
L. E. T.

[fol. 745] page 8 Troxtell

tors. Roy McCammon also went with us in Agels car. We stayed at the Planters Hotel. Mrs. Troxtell and I were assigned to the same room I had had on my first trip. Again I signed the same type of Henslee & Henslee card at the hotel—I do not recall if I registered for Mrs. Troxtell or not.

The next day I saw Harrington and was sent to Dr. Turner. This time I saw Dr. Turner. He didn't give me any sort of treatment nor advise me what to do. We re-
same LT

turned to Indianapolis the next day. Harrington complained to Agel because I had brought Mrs. Troxtell. Harrington considered it an unnecessary expense and I told Harrington that Crago had told me it was alright for me to take my wife. Henslee & Henslee ended up paying my wife's expenses. Agel took us back home.

After the second trip to Chicago I became impatient for settlement. I had been borrowing money from Henslee
V.T. 00

& Henslee. I had been getting \$250. loan every three weeks
L. E. T.

[fol. 746] page 9. Troxtell

from the Henslee firm and when Mrs. Troxtell was in
V.T. V.T. me.

Chicago with me Harrington told her she should keep a family on \$200. per month.

Finally in April I had Robt. Carrico, who had taken over Rummels job as griever call Harrington to tell him I wanted some action not so much for money but to get

medical attention for my hand. Carrico told him I wanted either the money or my hand fixed—the money so I could find a Doctor on my own. Harrington told Carrico to have me go back to work at least one day—this in order to pass the physical and work at least one day—I went back to work either three or five days. My hand was still painful and I signed off again.

I settled my case in Chicago April 28, 1960 in Harrington's office. In the final settlement I received \$5,500. of which I paid an attorneys fee of \$1,375.00. I repaid \$550. which Henslee & Henslee had loaned me. Also from the settlement I repaid the Pennsylvania \$1,200 I had borrowed.
L. E. T.

[fol. 747] page 10. Troxtell

rowed from them and \$71.40 loan from Railroad Retirement I received a check from the Henslee firm for \$2,303.60 which was less than the wages I had lost.

I have read the foregoing statement of ten hand written pages and same is true to the best of my recollection and belief.

/s/ LAWRENCE E. TROXTELL
/s/ VIRGINIA L. TROXTELL

—Witnessed

/s/ M. P. SCANLAN

L. E. T.

• Initials in text denote scrawled writing.

[fol. 748] Notice to take depositions (omitted in printing).

To Brotherhood of Railroad Trainmen:

[fol. 749] [File endorsement omitted]

[fol. 750]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

COMMONWEALTH OF VIRGINIA, ex rel., Virginia State Bar,
Complainant,

vs.

BROTHERHOOD OF RAILROAD TRAINMEN, c/o V. W. Satterwhite,
Assistant to the President; 904 West 30th Street, Rich-
mond, Virginia,

and

BERNARD M. SAVAGE, 3100 Mathieson Building,
Baltimore 2, Maryland,

and

NORRIS W. TINGLE, 3100 Mathieson Building,
Baltimore 2, Maryland,

Defendants.

Deposition of James A. Garwood—July 23, 1961

Examination before trial held at the office of G. Orcutt
Brown, Esq., Attorney at Law, 98 Main Street, Hornell,
New York, on the 28th day of July, 1961.

APPEARANCES:

Shults and Shults, Attorneys, by John J. Horey, of coun-
sel for Aubrey R. Bowles, Jr., 901 Mutual Building,
Richmond 19, Virginia, attorneys for the complainant.

John O. Donogan for McElroy, Young, Martin and Dunn,
707 State Tower Building, Syracuse, New York, rep-
resenting Brotherhood of Railroad Trainmen, of coun-
sel for Beecher E. Stallard, 1223-29 Central National
Bank Building, Richmond 19, Virginia, attorney for
Brotherhood of Railroad Trainmen.

James A. Garwood, witness.

[fol. 751] G. Orcutt Brown, Attorney at Law in the State of New York and a Notary Public.

Hearing held at the office of G. Orcutt Brown, Esq., 98 Main Street, Hornell, New York, on the 28th day of July, 1961, at 10:30 a.m., pursuant to subpoena signed by Dominick A. Gabrielli, Justice of the Supreme Court.

STIPULATION

It Is Hereby Stipulated and Agreed, by and between the attorneys for the parties hereto that copies of the testimony, all of which shall be deemed originals, shall be furnished to Aubrey R. Bowles, Esq., attorney for the complainant; to Beecher E. Stallard, Esq., attorney for defendant Brotherhood of Railroad Trainmen; to McElroy, Young, Martin and Dunn, Attorneys, of counsel for Brotherhood of Railroad Trainmen; and to Shults and Shults, Attorneys, of counsel for complainant.

Mr. Horey: Present and file notice to take deposition, dated July 19, 1961, signed and served by Aubrey R. Bowles, Jr., and with admission of service signed by Beecher E. Stallard.

Witness James Garwood is sworn.

Mr. Horey: Mr. Garwood, where do you live?

A. In Garwood, New York.

Q. How old are you?

A. 44.

Q. And by whom are you employed?

A. Erie Railroad. Or should be Erie-Lackawanna.

Q. About how long have you worked for them?

A. 20 or 21 years.

Q. And what is your position?

A. Yard conductor.

Q. Has all of your service been as yard conductor?

[fol. 752] A. No. Three years' track work.

Q. And how many years have you worked as a yard conductor?

A. Oh, probably 19 years.

Q. And generally, do your duties involve switching and movement of railroad box cars in the Hornell yard?

A. Yes.

Q. Are you a member of the Brotherhood of Railroad Trainmen?

A. Yes.

Q. And of what lodge?

A. Pier Maloney Lodge #1050.

Q. That's with headquarters in Hornell?

A. Yes sir.

Q. You have been a member of that lodge for at least 10 years?

A. At least, yes.

Q. And you were a member during the years 1951-1961?

A. Yes sir.

Q. Did there come a time, Mr. Garwood, on or about June 11, 1960, when you received an injury while working for the Erie-Lackawanna Railroad?

A. Yes.

Q. And following that injury, were you confined to a hospital?

[fol. 753] A. Yes, I was.

Q. What hospital, and where?

A. St. James Mercy Hospital, Hornell.

Q. Incidentally, who was the Hornell chairman of the Brotherhood of Railroad Trainmen?

A. Leander Pickard.

Q. And you are acquainted with Mr. Pickard?

A. Yes.

Q. And you have known him for how long?

A. 18 or 19 years.

Q. Can you tell me approximately how long he has been chairman of the trainmen in Hornell?

A. Well, I would say approximately 6 years anyway.

Q. And am I correct that Mr. Pickard is elected by a vote of members of the lodge?

A. Yes sir.

Q. Now, following your injury, I think you stated you were confined to the St. James Hospital in Hornell?

A. Right.

Q. Approximately how long were you in the hospital?

A. 8 or 9 days.

Q. And while you were in the hospital, Mr. Garwood, did Mr. Pickard come to see you?

A. Yes sir.

Q. Were you admitted to the hospital the same date [fol. 754] you were hurt?

A. Yes.

Q. Approximately how long had you been in the hospital before he came to see you?

A. About 2 days, I believe it was.

Q. Did he come to the hospital to see you more than once?

A. He came twice at my request.

Q. And the first time he came to see you, Mr. Garwood, was about 2 days after you were admitted?

A. Yes.

Q. And at that time did you have some conversation with regard to the injury you had received?

A. Yes, we talked about it.

Q. Will you tell me, Mr. Garwood, as best you recall, what Mr. Pickard said and what you said?

A. We talked about how it happened. Also on how lucky I was not to get hurt worse.

Q. And that was the sum and substance of that conversation?

A. Yes.

Q. How many days was it before you saw him again in the hospital?

A. About 4 days.

Q. And on this second visit did you have some conversation with regard to the accident in which you had been injured?

[fol. 755] A. Yes sir, we did.

Q. Will you tell me, Mr. Garwood, what Mr. Pickard said to you and what you said to him at that time?

A. He asked if I heard about legal advice, he informed me that the Union had legal aid or services if needed, if the person wanted them.

Q. And what did you say?

A. I said well, I wasn't sure yet whether I wanted anyone or not.

Q. Did he tell you the name of the legal representative of the brotherhood?

A. Well, I believe he did, but I don't remember.

Q. When you refer to union, you refer to the brotherhood?

A. Yes, Brotherhood of Railroad Trainmen.

Q. Was anything else said at that time?

A. No.

Q. Was there any conversation with reference to the amount of fees that the Brotherhood attorneys charged?

A. No, there wasn't.

Q. Was there any conversation with regard to having a representative of the Brotherhood's attorneys call on you?

A. Not at that time, no.

Q. That was the sum and substance of the conversation the second time in the hospital?

[fol. 756] A. Yes sir.

Q. At least with regard to the accident and any attorneys being involved?

A. Yes, that's right.

Q. Did you see Mr. Pickard after you left the hospital?

A. About four days after I left the hospital.

Q. Where was that at?

A. At my home.

Q. He came up there?

A. Yes, at my request.

Q. You had called him?

A. I had called him.

Q. When Mr. Pickard saw you in the hospital, did he say in words or in substance that he was there as the chairman of the union?

A. No, he didn't.

Q. You knew, however, that he was chairman of the union?

A. Yes.

Q. Approximately 4 days after your release from the hospital, you saw him again at your home?

A. Yes.

Q. At that time did you have any conversation with regard to the accident, your injuries, and the possibility of having attorneys represent you?

A. Yes, I did.

[fol. 757] Q. Will you tell me what Mr. Pickard said at that time and what you said?

A. I asked Mr. Pickard to get in touch with the legal aid for me, that I would like to talk with them.

Q. What did he say?

A. He said he would get in touch with them and have them come up and see me.

Q. Did he say how he would get in touch with them?

A. I believe he said he would write to them.

Q. Do I understand that you asked Mr. Pickard to get in touch with the legal attorneys for the union?

A. Yes, I asked him.

Q. Did he at that time, 4 days after you were released from the hospital, or any time you were in the hospital, at any time suggest to you or urge you to talk with the union attorneys?

A. No, he did not.

Q. Did he at any time following the accident, up to this time, did Mr. Pickard urge you or ask you to talk with the union attorneys?

A. No sir.

Q. Now following the conversation at your home, did you talk with the attorneys for the union?

A. Yes, I talked with the attorneys.

Q. Approximately when was that?

[fol. 758] A. About 3 days later, I believe.

Q. And where?

A. At my home.

Q. And do you know who you talked with at that time?

A. It was Murray Dunn.

Q. And was Mr. Pickard there?

A. Yes, he was there.

Q. Did he arrive with Mr. Dunn?

A. Yes.

Q. Do you know what time of day this was?

A. About 7 o'clock in the evening.

Q. This would have been some time in the middle of June, 1960?

A. Somewheres, yes.

Q. And at that time did you retain Mr. Dunn or his firm to settle your claim?

A. Yes, I did.

Q. Did you sign a written retainer agreement, that you know?

A. Yes sir.

Q. And who produced the written retainer agreement?

A. Mr. Dunn.

Q. Before Mr. Dunn came there, had you had any talk with Mr. Pickard as to what percentage the attorneys would charge you for handling your case?

[fol. 759] A. No, I had not.

Q. Did you when Mr. Dunn came there?

A. Yes sir.

Q. And what was that percentage?

A. 25%.

Q. And did you sign a retainer agreement at that time?

A. Yes sir.

Q. Now, following the conference at your home, did you at any other time talk to Mr. Dunn or any member of his firm when Mr. Pickard was present?

A. No, I did not.

Q. Now, Mr. Garwood, you told us that you did have a conference at your home at which Mr. Pickard was present?

A. Yes sir.

Q. Now following that conference, did you have any talk with Mr. Pickard when Mr. Dunn was not present with regard to retaining union attorneys?

A. No sir.

Q. When you talked to Mr. Dunn at your home, was there any conversation about any cash advances being made to you?

A. No, there was not.

Q. And at the conference at your home, was Mr. Dunn introduced to you by Mr. Pickard?

[fol. 760] A. Yes sir.

Q. And was he introduced to you as a member of the firm

which was attorneys for the Brotherhood of Railroad Trainmen?

A. Yes sir.

Q. And that introduction was made by Mr. Pickard?

A. Yes sir.

Q. So following the conference at your home, approximately in the middle of June, at no other time did you meet with Mr. Pickard and any union attorneys when Mr. Pickard was present?

A. No.

Q. Were any cash advances made to you at any time by Mr. Dunn or any of his associates?

A. Yes.

Q. Cash advances were made?

A. Yes.

Q. Approximately how long after the accident were they made?

A. I would say probably two months, I believe.

Q. And was more than one cash advance made?

A. No sir.

Q. There was but one cash advance?

A. Yes.

Q. How much was that?

[fol. 761] A. \$200.00.

Q. Your case was eventually disposed of by settlement?

A. Yes, it was.

Q. That cash advance was deducted at the time the settlement was put through?

A. Yes, it was.

Q. Had you had any injury while working for the railroad before the injury of June, 1960?

A. I had one in 1945.

Q. Was that disposed of by a settlement?

A. Yes sir.

Q. Did you retain attorneys in connection with that settlement?

A. No.

Q. You handled it directly with the Railroad Claim Department?

A. Yes sir.

Q. At any time when Mr. Pickard was talking to you while you were in the hospital, or afterwards, did he have any comment to make to you about the railroad Claim Department?

A. No.

Q. He didn't say anything at all about the railroad Claim Department?

A. No sir.

[fol. 762] Q. Following Mr. Dunn being at your home, I assume that you met with either him or other representatives of his firm on various occasions?

A. Yes sir.

Q. Did Mr. Dunn or any representative of Mr. Dunn at any time advise you as to the amount of settlement you would get?

A. No sir.

Q. No figure was set or no promise was made as to the amount?

A. No sir.

Q. Mr. Garwood, would you sign your name on this piece of paper four or five times? (Mr. Garwood does so.)

May the record show that it is stipulated between counsel that Exhibit 1 for Identification consists of the signature of the witness James Garwood in four successive places as received in evidence.

Q. Mr. Garwood, I show you plaintiff's Exhibit 2 for Identification and show you a signature on the lower right hand corner, and ask if that is your signature?

A. Yes.

Q. That was signed by you?

[fol. 763] A. Yes.

Q. I ask you to look at that document and ask if it is the same as signed by you?

A. Well, it looks the same.

Q. And I call your attention to a signature in the lower left hand corner above the word "Witness". Whose signature is that?

A. Harold P. Lewis.

Q. Do you know Harold P. Lewis?

A. Yes sir.

Q. Did Mr. Lewis sign the Exhibit 2 with you, in your presence? Did you see Lewis sign this?

A. No, I didn't.

OFFER IN EVIDENCE

Q. I offer Exhibit 2 for Identification in evidence and request that it be annexed to and made a part of witness's deposition.

Let the record show that the exhibit was made available for examination to defendant's attorney.

Witness Mr. Garwood was then examined by Mr. Donogan.

Mr. Donogan: Mr. Garwood, do you remember when Mr. Lewis— How did you see Mr. Lewis?

A. He came to my home.

Q. Do you remember what date he came to your home?

A. I don't remember the exact date, no.

Q. I show you Plaintiff's Exhibit 2 for Identification. [fol. 764] Under your name in the lower right hand corner, is there a date indicated in there?

A. November 4, 1960.

Q. Is that the first time you saw Mr. Lewis?

A. I only saw him one time.

Q. Did you see him before this was typed up?

A. He was at my home in the morning, and in the afternoon I came to Hornell to go to work and I signed the paper.

Q. Did Mr. Lewis type this paper in your presence? Or was the paper typed in your presence?

A. No, the paper was not typed in my presence.

Q. So Mr. Lewis saw you on November 4, 1960?

A. Well, that's the date on the paper.

Q. At that time did the relationship of attorney-client exist?

Mr. Horey: I object to the form of that question.

Q. At the time you signed this paper, was the firm of McElroy, Young, Martin and Dunn still your attorney?

A. Yes sir.

Q. And your case had not been concluded at that time?

A. No, it hadn't.

Q. When was the first time you met me, Mr. Garwood?

A. Last night.

[fol. 765] Q. You say Mr. Lewis saw you as you were going to work and had you sign this paper?

A. Yes sir.

Q. Did you have an opportunity to read the paper at that time?

A. I had a small opportunity.

Q. Did you read it completely?

A. Not all of it, no.

Q. At the time Mr. Lewis saw you at your home, what did he do?

A. He took down notes.

Q. Or did he supposedly write this out in longhand, or do you know?

A. To the best of my knowledge, he took down notes.

Q. You did not have an opportunity to completely read this before you signed it?

A. No.

Q. I am going to object to the admission of this statement for various reasons. For one thing, it is incompetent; Mr. Garwood never had a chance to read it completely. Second, the relationship of attorney-client was in existence at the time this paper was signed. I think it is incompetent, immaterial, and improper.

Mr. Brown: I refuse to rule on the admissibility of [fol. 766] Exhibit 2 for Identification on the grounds that such objection will have to be determined on trial of this action.

Mr. Donogan: I will take an exception to your ruling. I would like to further object to the incompetence, immateriality, and irrelevance as purported in Plaintiff's Exhibit 2 for Identification, in that it is not the original paper made and not the original notes of the witness Lewis.

Mr. Brown: Same ruling.

Mr. Donogan: Same exception.

Mr. Horey continued with his examination of Mr. Garwood.

Mr. Horey: Mr. Garwood, I think you told Mr. Donogan that Harold Lewis came to your home in the morning. Is that right?

A. That's right.

Q. You had a discussion with him at that time?

A. Yes.

Q. Did Mr. Lewis tell you who he represented when he talked to you?

A. Yes sir.

Q. What did he say?

A. He said he represented the American Association of Railroads.

Q. Following your conversation in the morning, did you [fol. 767] make an appointment to see him in Hornell that afternoon?

A. On the way to work. He made an arrangement to see me.

Q. You met him here in Hornell?

A. Yes.

Q. Where did you meet?

A. The waiting room of the Erie Railroad depot.

Q. Do you normally work there?

A. No.

Q. Did you at that time?

A. No, I stopped at the depot on the way to work.

Q. Do you normally stop at the depot or the caller's office on the way to work?

A. I normally stop at the caller's office.

Q. That is in the same place?

A. Yes.

Q. It was at that time you signed Exhibit 2?

A. Yes sir.

Q. Now, in any conversation with Mr. Pickard, did he show you any newspaper clippings or cancelled checks of any kind involving other cases?

A. No.

Q. I assume Mr. Dunn did not either?

A. No sir.

[fol. 768] Q. When you were in the hospital, how did you contact Mr. Pickard?

A. My wife called him for me.

Q. On the telephone?

A. Yes.

Q. I think you mentioned that you saw Mr. Donogan last evening?

A. Yes.

Q. He contacted you and you met with him last evening?

A. Yes.

Q. Did you meet with Mr. Donogan last evening?

A. Yes sir.

Q. And you knew or were advised that Mr. Donogan was an attorney?

A. Yes.

Q. You knew he was a member of the firm which in this area represents the Brotherhood of Railroad Trainmen, did you not?

A. Yes sir.

Q. Did you have any discussion with Mr. Pickard with regard to the matter of this examination within the last three or four days?

A. Yes sir, I did.

Q. When did you have it and where?

A. Over the telephone.

[fol. 769] Q. You called Mr. Pickard?

A. Yes sir.

Q. At his home?

A. Yes.

Q. Was that a couple of days ago?

A. Yes.

Q. What did Mr. Pickard say to you and what did you say to him?

Mr. Donogan: I object to the following of this line of questioning. I think it is irrelevant, immaterial, and has no purpose, on the deposition as stated in the papers. It is irrelevant and immaterial to the basis of the complaint.

Mr. Brown: Same ruling.

Mr. Donogan: Same exception.

A. I asked Mr. Pickard what the subpoena was all about. He said he didn't know, and I asked him about calling the legal aid, the office of McElroy, Young, Martin

and Dunn, to see if they did know what it was about. So when I got through work that night I called them.

Q. What did he say when you asked him about calling the attorneys?

A. He said maybe it would be a pretty good idea so I would know what it was all about.

[fol. 770] Q. Did you call the attorneys or did Mr. Pickard call them?

A. I called them.

Q. Did he tell you he was going to call them?

A. No, he didn't say he was.

Q. Did he say for you to call them, that he would not call them?

A. I told him I would call them.

Q. And you did make the call yourself?

A. Yes.

Q. Was Mr. Pickard there when you made it?

A. No, he wasn't.

Q. You have been a member of the Brotherhood of Railroad Trainmen for approximately 19 years?

A. Yes sir.

Q. And in June of 1960 were you aware that the Brotherhood maintained a legal aid department or a legal department?

A. Yes sir.

Q. How did you first find that out?

A. Through fellow workers.

Q. And when?

A. About 5 or 6 years ago.

Q. And what was your understanding as to the relationship [fol. 771] between the union and the attorneys for the union?

Mr. Donogan: I object to the form of that, he has no way of knowing of the relationship.

Mr. Horey: His understanding of it.

Mr. Donogan: His thinking doesn't mean anything if there is any relationship or not. You are basing your question on a conclusion and I am objecting to it.

Mr. Horey: You knew before June, 1960, Mr. Garwood, that the Brotherhood of Railroad Trainmen had attorneys in this general area, is that correct?

A. Yes sir.

Q. Did you know the name of the firm?

A. No, I did not.

Q. Did you know what services the attorneys were to furnish for you as a member of the Brotherhood of Railroad Trainmen, if any?

A. Yes sir.

Q. And what were those services?

A. Legal aid if the person needed it.

Q. Did you understand that that was to be paid for by you or not?

A. Yes sir.

Q. Be paid by you in any case?

A. That part I don't know.

[fol. 772] Q. And in your conversation with Mr. Pickard at the hospital, did you have any discussion with regard to what assistance the attorneys for the Brotherhood were to render to you, if any?

A. No.

Q. You had no talk about that at all?

A. No.

Q. Have you on other occasions, Mr. Garwood, used the services of an attorney? Any attorney? Other than this first injury?

A. Yes sir.

Q. Approximately how many times have you found it necessary to use the services of an attorney? Any attorney?

A. Once besides the accident case in 1960.

Q. On that occasion did you use the firm of McElroy, Young, Martin and Dunn?

A. No, I didn't, but it didn't pertain to railroad, and that was even before I even knew that firm.

Q. Do you know whether or not Mr. Pickard or any representative of the Brotherhood advised the union attorneys in writing as to your suffering and injuries while at work?

A. I don't know.

Q. And Mr. Pickard never told you either way, is that [fol. 773] correct?

A. No, he did not.

Q. In your conversations with Mr. Dunn, did you have any discussion with regard to the Railroad Claim Department and its method of operation?

A. Not that I recall.

Q. Is it possible that you could have had some conversation and have forgotten it?

A. I don't think so.

Q. Your best recollection today is that neither you or Mr. Dunn said anything about the Claim Department of the Erie-Lackawanna Railroad?

A. No, we did not.

Q. You knew it was in existence?

A. Yes.

Q. You knew from past experience this Claim Department had jurisdiction to handle personal injuries?

A. Yes.

Q. And as a matter of fact you had used their services once before?

A. Yes.

Q. Did you, following the accident of June, 1960, contact any member of the Erie-Lackawanna Claim Department, or any representative?

[fol. 774] A. They contacted my home once.

Q. I assume at that time you advised them you had obtained the services of an attorney?

A. No, I did not.

Q. The contact that was made to you was made before you had retained Mr. Dunn and his firm?

A. Yes.

Q. And following your retention of Mr. Dunn, you were not further contacted by a representative of the Erie-Lackawanna Claim Department?

A. That's correct.

Mr. Horey: I have no further questions.

The witness, Mr. Garwood, was then examined by Mr. Donogan.

Mr. Donogan: You say, Mr. Garwood, you have a prior injury, that is, prior to June, 1960, which was settled directly with the Claim Department?

A. Yes.

Q. What was the result of your settlement?

A. Unsatisfactory settlement.

Mr. Horey: I am going to object to the immateriality of this. I further object on the grounds that the statement of the witness is conclusory and opinion only.

Mr. Brown: Same ruling.

Mr. Horey: Same exception.

[fol. 775] Mr. Donogan: This is a personal feeling of his as a result of some action taken by him and it is competent. This is cross-examination on my part and I am entitled to the question and the answer.

Mr. Garwood, you stated you heard of the firm of McElroy, Young, Martin and Dunn prior to your injury?

A. Yes.

Q. How did you hear of the firm, prior to your injury of 1960?

A. Through a fellow worker.

Q. What do you mean, through a fellow worker?

A. One of the fellows, or other fellows who worked in the yard with me.

Q. Did you have a conversation with them at some time?

A. Yes, I had a conversation with one.

Q. What was the substance of that conversation?

Mr. Horey: For the record, I object to the conversation on the grounds that it is hearsay.

Mr. Brown: Same ruling.

Mr. Horey: Same exception.

A. Pertaining to an injury he had received and a settlement the Claim Department had offered him, and also then [fol. 776] the result of the claim that he had received through the services of the legal aid. Which he was very satisfied with.

Q. In other words, did this fellow employee recommend this law firm of McElroy, Young, Martin and Dunn to you?

Mr. Horey: I object to that question.

Mr. Brown: Same ruling.

Mr. Horey: Same exception.

A. Yes sir.

Q. In other words, you had heard, as you testified of the firm of McElroy, Young, Martin and Dunn, and a fellow worker had recommended this firm to you in the event you were injured?

A. That's correct.

Mr. Horey: Same objection.

Mr. Brown: Same ruling.

Mr. Horey: Same exception.

Q. Mr. Garwood, was any pressure or promises made to you or upon you at any time, prior to or since you were injured, regarding the retention of the firm of McElroy, Young, Martin and Dunn?

Mr. Horey: I object first to the form of the question as to the word "pressure". If withdrawn, I will withdraw [fol. 777] my objection.

Q. Were any promises made to you at any time concerning the firm of McElroy, Young, Martin and Dunn?

A. No sir, there were no promises.

Q. Outside of doing a good job for you?

A. That's all.

Q. Did anyone tell you you had to hire any firm?

A. No sir, they did not.

Q. You had previously handled a claim yourself directly with the Claim Department?

A. Yes sir.

Q. Since the firm of McElroy, Young, Martin and Dunn was retained by you, have you recommended this firm to anyone else?

A. Yes sir.

Q. Regarding railroad injury cases?

A. Yes sir.

Q. Do you have any feelings concerning the manner in which your claim was handled?

Mr. Horey: I object to any feelings he has as being incompetent and irrelevant.

Mr. Brown: Same ruling.

Mr. Horey: Same exception.

Q. Are you satisfied or dissatisfied with the manner in [fol. 778] which your claim was settled?

• Mr. Horey: Same objection.

Mr. Donogan: I think he is qualified to answer this question.

Mr. Brown: Same ruling.

Mr. Horey: Same exception.

A. I am satisfied.

Q. Did the railroad advance you any money to live on following your injury?

A. The railroad, no.

Q. Following your injury, before you returned to work, did there come a time when you and your family needed funds to subsist on?

A. Yes sir.

Q. At that time did you request a loan for living expenses?

A. Yes sir.

Q. That loan Mr. Horey referred to as a cash advance?

A. Yes.

Q. When Mr. Lewis came to see you, did he mention any lawsuit to you? That is, a lawsuit by the Commonwealth of Virginia, ex rel., against the Brotherhood of Railroad Trainmen?

A. No, he did not.

[fol. 779] Q. And again I state this was while the firm of McElroy, Young, Martin and Dunn were still your legal representatives when he came to see you?

A. Yes sir.

Q. Your case had not been concluded at that time, November 4, 1960?

A. No sir.

Q. It had not been concluded?

A. No.

Q. At the time of your injury, Mr. Garwood, you didn't really have any personal knowledge of any relationship between the firm of McElroy, Young, Martin and Dunn, and the Brotherhood of Railroad Trainmen?

Mr. Horey: I object to the form of that question.

Q. Did you have any knowledge of any alleged relationship between the firm of McElroy, Young, Martin and Dunn, and the Brotherhood of Railroad Trainmen?

Mr. Horey: I object to that as being incompetent, irrelevant, and immaterial.

Mr. Brown: Same ruling.

Mr. Horey: Same exception.

Mr. Donogan: Well, it's within his personal knowledge.

[fol. 780] **A.** No sir.

Q. You didn't know whether any relationship or not existed?

A. I didn't at that time.

Q. You don't know now, do you?

A. Not to my knowledge.

Mr. Horey: When you say "at that time", Mr. Garwood, are you referring to the time of your injury?

A. That's right.

Mr. Donogan: You had heard that the firm of McElroy, Young, Martin and Dunn were experts in the field of railroad negligence?

A. That's correct.

Mr. Horey: I object to that on the grounds of hearsay.

Mr. Brown: Same ruling.

Mr. Horey: Same exception.

Mr. Donogan: I yield.

Mr. Horey: Mr. Garwood, I believe in an answer to a question, you stated that at the time of your injury, which was in June, 1960, you had no knowledge of any alleged relationship between the McElroy firm and the Brotherhood of Railroad Trainmen? Is that correct?

A. That's correct.

[fol. 781] **Q.** Did you have any knowledge of the existence of the firm of McElroy, Young, Martin and Dunn at the time of your injury in June, 1960?

Mr. Donogan: Objection, he has already testified.

Mr. Brown: Same ruling.

Mr. Donogan: Same exception.

A. Yes.

Q. You knew there was such a firm?

A. I knew there was such a firm.

Q. Did you know where they were located?

A. No, I did not.

Q. How did you find out where the firm was located?

A. Through Mr. Pickard when I called him.

Q. You asked Mr. Pickard?

A. I asked him.

Q. Or did he tell you?

A. He told me where it was.

Q. I think you told Mr. Donogan that no one told you you had to hire any firm of attorneys, is that correct?

A. Yes.

Q. Did anyone urge you suggest to you that you should retain any attorney in connection with your personal injury?

A. No.

[fol. 782] Q. No one ever suggested that you should have legal counsel, whoever it may be?

A. No.

Q. Now, you told Mr. Donogan that you have recommended his firm to other people, is that correct?

A. Yes.

Q. Did Mr. Donogan, or any member of the firm of Mr. Donogan, or other representatives of it, ask you to do this?

A. No, they did not.

Q. You stated that the railroad did not advance you any monies after your injury and before you returned to work?

A. The railroad didn't, no.

Q. Did you know if there was a practice on the Erie Lackawanna to make advances to men who had been injured pending settlement of their personal injury claims?

A. I knew they could get it if they wanted it. Under the Crosser Bill.

Q. When you refer to the Crosser Bill, you are referring to an act under the Federal Employment Act, under which certain sickness benefits are paid to injured employees?

[fol. 783] A. Yes.

Q. And you at no time asked any representative of the railroad to advance you any money?

A. No, I did not.

Q. When you were contacted by a representative of the Claim Department, was the matter of monies discussed at all?

A. I don't recall.

Mr. Horey: I guess that's all.

Mr. Donagan: Following your injury of June, 1960, Mr. Garwood, it has been brought out that you drew benefits under what is known as the Crosser Amendment to the Railway Labor Act, which was also called sickness benefits.

A. Yes sir.

Q. In order to obtain these benefits, must you file an application and submit medical reports?

A. Yes sir.

Q. And this comes from the United States Government Railroad Retirement Board?

A. Yes sir.

Q. Who was your attending physician at that time, was it a Dr. Kelly?

A. Dr. James Kelly.

Q. Did there come a time when he stopped signing medical [fol. 784] forms?

Mr. Horey: I object to this as immaterial.

Mr. Brown: Same ruling.

Mr. Horey: Same exception.

A. Yes.

Q. And was it at that time that you made a loan?

A. Yes sir.

Mr. Horey: Same objection.

Mr. Brown: Same ruling.

Mr. Horey: Same exception.

Q. Had you returned to work at that time?

A. No.

Q. Did you remain out of work for some time after Dr. Kelly refused to sign medical forms?

A. Yes sir.

Mr. Horey: Same objection.

Mr. Brown: Same ruling.

Mr. Horey: Same exception.

Q. Mr. Pickard was your local chairman at the time of your injury?

A. Yes sir.

Q. Is he still your local chairman?

A. Yes.

Q. Had you ever discussed railroad problems with him prior to your injury on June 11, 1960?

[fol. 785] A. Yes.

Q. Have you discussed railroad problems with him since your accident?

A. Yes.

Q. That's his job, isn't it?

Mr. Horey: Objection. It's beyond the knowledge of the witness, it's incompetent and immaterial.

Mr. Brown: Same ruling.

Mr. Horey: Same exception.

Q. He's still your chairman in the railroad yard?

A. Yes sir.

Mr. Horey: Same objection.

Mr. Brown: Same ruling.

Mr. Horey: Same exception.

Q. You testified that you asked your wife to call Mr. Pickard to come to the hospital to see you?

A. Yes sir.

Q. Did he bring any papers to you while you were in the hospital?

A. Yes sir.

Q. What were these papers about?

A. The application for sickness benefits.

Q. At that time did you discuss any insurance benefits?

A. Well, no, we didn't.

Q. Do you carry Brotherhood insurance?

[fol. 786] A. Yes, I carry it.

Mr. Horey: Do you know if Mr. Pickard receives a salary from the Brotherhood?

A. I don't know.

(This concluded the examination of Mr. Garwood.)

Mr. Brown: For the record, where objections have been made and overruled, it is on the grounds that the objection is a matter for the trial court or court hearing the action, and the objections were overruled on the grounds and with the understanding that the same may be marked at the trial of the action and be ruled on at that time, and that in each case all parties have been given duly noted exception to each refusal to rule.

I, James Garwood, do certify that I have read the foregoing transcript, consisting of 37 typewritten pages, and hereby affix my signature at the end thereof.

/s/ JAMES GARWOOD

[fol. 788] Commissioner's certificate (omitted in printing).

[fol. 791]

PLAINTIFF'S EXHIBIT 2 FOR IDENTIFICATION

Garwoods, N. Y.
November 4, 1960

81831.2

My name is James Garwood and I reside on the Garwoods Road at Garwoods, New York. I am 43 years of age and employed by the Erie Railroad as a Yard Conductor.

On June 11, 1960 I sustained an injury to my left ankle; ribs on my left side and a cut upon the right front side of my head, while working my tour of duty in the Hornell Yards of the Erie Railroad. Following my injuries I was taken to the St. James Mercy Hospital in Hornell.

Several days after the date of my injury and while still a patient in the St. James Hospital, Mr. L. A. Pickard, Local Chairman of the Brotherhood of Railroad Trainmen, to which I belong, called upon me. I had a previous injury while employed by the Erie Railroad about 10 years ago and I had settled my resultant claim, direct with the Erie Claim Department without the aid of an attorney. At the time Mr. Pickard called upon me in the hospital, there was no thought in mind to hire the services of an attorney, as far as I was concerned. Mr. Pickard thought I should have an attorney to look after my interests in the matter of the claim I would have against the Erie as a result of my injuries. In fact, Mr. Pickard urged me to retain the services of a Law Firm located in Syracuse, N. Y. who were, he explained, the Legal Aid Attorneys for the Brotherhood of Railroad Trainmen. The name of this Firm is McElroy, Martin, Dunn and Young. Mr. Pickard said he would write to them explaining about my accident and that someone from this firm would probably call upon me, relative to my claim. In as much as Mr. Pickard is the Local Chairman and urged me to retain Legal Counsel in my behalf against the railroad I agreed to having him make contact with the Legal Aid Attorneys.

About 3 weeks after the date of my accident and after I had been discharged from the hospital and had returned

to my home in Garwoods, N. Y., which is located in Allegany County, Mr. Pickard brought a man to my home whom he introduced to me as Attorney John Donnegan of the McElroy Firm in Syracuse. Even at this point, I still had not made up my mind about retaining counsel. I had talked to members of the Erie Claim Department but there had been no talk of settlement as I was still convalescing from the injuries I had received. Mr. Pickard and Attorney Donnegan pointed out that I should have an attorney to represent me so my rights would be protected and I would get full value of my claim. I finally agreed to retain the McElroy firm and signed a contract with Attorney Donnegan in which I agreed to pay them the sum of 25% of whatever settlement I might get, as their fee.

The attorneys filed suit, in my behalf, against the Erie Railroad for \$100,000.00 but my case was settled, out of court, on October 26, 1960 for \$5,100.00. As of this date, November 4, 1960, I still have not received my settlement check from my attorneys.

I have read this one page statement and it is all true to the best of my knowledge and belief.

/s/ JAMES GARWOOD
James Garwood

November 4, 1960

/s/ HAROLD P. LEWIS
Witness

[fol. 792] - NOTICE TO TAKE DEPOSITION (omitted in printing).

To Brotherhood of Railroad Trainmen:

[fol. A]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

COMMONWEALTH OF VIRGINIA, ex rel., VIRGINIA STATE BAR,
Plaintiffs,

—VS—

BROTHERHOOD OF RAILROAD TRAINMEN, BERNARD M. SAVAGE,
and NORRIS W. TINGLE, Defendants.

Trial Proceedings of October 9, 10, 11, 13, 1961

Before: Honorable Brockenbrough Lamb, Judge.

APPEARANCES:

Bowles, Boyd & Herod, Counsel for Plaintiff, By: Aubrey
R. Bowles, Jr., Esq., Aubrey R. Bowles, III, Esq.

Beecher E. Stallard, Esq., Counsel for Defendants, Broth-
erhood of Railroad Trainmen.

[fol. 2]

October 9, 1961

The Court: Good morning, Gentlemen. The case of
the State Bar against the Brotherhood is set for 10:30,
Gentlemen. I see everybody is here now. Are there any
motions before we begin that case?

RENEWAL OF MOTION OF DEFENDANT THAT IT BE FURNISHED
WITH NAMES AND ADDRESSES OF WITNESSES AND DE-
NIAL THEREOF

Mr. Stallard: Yes, Your Honor. I want to renew my
motion. The defendant, Brotherhood, renews its motion
at this time that the plaintiff be required to give defendant
the names and addresses of witnesses which plaintiff ex-
pects to use in this cause. The reason for making this

is that under the present rules of the Supreme Court of Virginia, a lawsuit is not a hide-and-go-seek proposition, but it is based on justice after its presentation of all the evidence on both sides. If defendant does not know the names of plaintiff's witnesses, then he cannot refute plaintiff's evidence, since this does not concern only local witnesses, but witnesses who undoubtedly will come from various parts of Virginia.

Mr. Bowles, Jr.: Your Honor please, in the light of that statement, may I be allowed to make a short one?

The Court: Just as you please.

Mr. Bowles, Jr.: We resisted that motion at the time it was made on two grounds: The first, that the motion did not set forth the situation referred to in the law rules [fol. 3] on which, I presume, by inference, Mr. Stallard undertakes to rely. Secondly, that in the taking of the depositions, it has come to our notice that during the taking of them, the more notice we gave of the taking of the depositions, the more visitation there was by members of the Brotherhood on the prospective witness. Therefore, sir, we saw no reason why we should be required, there being no rule, as I understand it, to furnish the defendant with the names of our prospective witnesses to testify to matters which are equally and fully, and even more fully, in the knowledge of the defendant than they are of the plaintiff.

The Court: The motion of the defendant is overruled, to which action of the Court the defendant by counsel objected and excepted.

Mr. Stallard: Yes.

The Court: Now, Mrs. Cessna, have you got the style of the case and the appearances?

The Reporter: Yes.

(The reporter was sworn by the Court.)

The Court: Let the record show the oath was taken, please.

**MOTION TO STRIKE DEPOSITIONS AND EXHIBITS AND
RULING THEREON**

Mr. Stallard: Your Honor, I have other motions, copies of which are furnished counsel for the plaintiff. The [fol. 4] motions are pertaining to depositions which were taken in the State of California, Indiana, Illinois, Pennsylvania, New York, and other places. While objections were made in the record to the introduction of certain evidence and, for example, the witness had signed a written statement outlining what he thought took place between him and some representative, either of the Brotherhood or of his local union, those exhibits were written up, or the statement written up, by the Association of American Railroads' representative and the witness signed it. Then those statements were handed to the witness, and he introduced the statements as exhibits, and there are other many reasons why we want to make a formal objection to the introduction of those exhibits. Now I don't feel at this time, until you have heard those depositions read, that you could pass on the motion, but I wanted to give counsel plenty of time so he could reply to the motions, and they pertain to only the depositions which have been lodged here over a period of months.

The Court: And you have furnished counsel copies of those?

Mr. Stallard: Yes, sir.

The Court: I will pass on those motions when we reach them, as you suggest.

Mr. Stallard: Yes.

[fol. 5] The Court: If you will just keep them.

Mr. Stallard: Yes.

COLLOQUY BETWEEN COURT AND COUNSEL

Mr. Bowles, Jr.: I didn't catch that. You furnished counsel copies of the motions?

Mr. Stallard: Various motions. You have them.

Mr. Bowles, Jr.: Well, I noticed one here, I haven't had a chance to read it, but I see that the certificate says it was handed to us on the blank day of September.

Mr. Stallard: Well, I guess if you will read the other, it says October there. There were some of them written in October, and some of them, as you know, they just came in through September and October.

Mr. Bowles, Jr.: Yes, but I just got it this morning.

Mr. Stallard: If you will look down there, I have certified down here—I didn't change that, this is October 9 here.

Mr. Bowles, Jr.: Your Honor, the copy that I have says I got it on the blank day of September, which isn't so. I got it this morning.

The Court: Let's amend, and fix it right. You will date it October 9.

Mr. Stallard: Your Honor, I didn't sign those. Some of them were dictated in September, and some in October, [fol. 6] as they came in. All of them say October 9.

The Court: This morning?

Mr. Stallard: Yes, sir, this morning. I didn't sign that at all. It was just written up.

The Court: Any further preliminary motions?

Mr. Stallard: No, sir.

The Court: Court recesses until 10:30. Court will recess until 10:30.

(Recess.)

The Court: The Court is ready, Gentlemen.

OPENING STATEMENT OF MR. BOWLES, JR.

Mr. Bowles, Jr.: If Your Honor please, this matter, Commonwealth of Virginia in relation to the Virginia State Bar against the Brotherhood of Railroad Trainmen, an unincorporated association, operating in all of the states of the United States, is the effort of the Virginia State Bar to prevent this association from practicing law in this Commonwealth.

I call your attention, if Your Honor please, to certain phases of the Bill of Complaint. At the outset, I would like to say to the Court that I think you will see as we proceed that in a sense this is a monumental task created in some respects by the very nature of the matter. In other re-

spects, by the answer and defense presented by the defendant. The complaint sets forth that this association has for a long number of years engaged in certain practices, the practices, by way of example, enumerated in the complaint in Paragraph 5.

The Brotherhood maintains what it calls a Legal Aid Department which, by collecting for that, is valuable for certain other purposes; also, solicits business through the means of certain of its employees and members of its lodges for various attorneys at law throughout the United States, which have been selected by the Legal Aid Department and designated by said department as regional or legal counsel.

Paragraph 6, if Your Honor please, sets forth the method by which this solicitation is carried out.

Paragraph 7 shows the relationship of the legal or regional counsel to the Brotherhood, and that general allegations, and as we expect to show, is that these regional counsel or legal counsel as they are now called, are set up by designation of the president of the Brotherhood, who under its constitution is the sole person having authority to operate the Legal Aid Department. The president has undertaken to say, as we shall later show, that the selection of regional and legal counsel is made after very careful consideration of each of them as to integrity, ability, and [fol. 8] competence.

Now, the president has said, by way of deposition, that he has, in each instance, exercised that judgment by such careful investigation into the background of each of the legal counsel and regional counsel that now hold office, and when he became president in 1949, I believe it was necessary under the constitution that he reappoint each one that then existed, and to appoint others if that should be necessary, but each such appointment was made after such investigation into the background of each of these regional counsel.

Now, if Your Honor please, the system under which they operated in the beginning was that the Brotherhood controlled who were the regional counsel; the Brotherhood controlled what they should charge to the people who were members of the Brotherhood that they represented in per-

sonal injuries, and death cases, under their Federal Employers Liability Act; that the Brotherhood controlled the disposition, in large respect, of the fees so charged, and in varying amounts, from the beginning to the present time; that the distribution of the 25 percent charge to the injured person or the executor of the deceased member would go 5 percent at one stage, and other percent in other stages, to the Brotherhood for the maintenance of that department.

[fol. 9] The Brotherhood had on its payroll jointly on the payroll of regional counsel, certain people that were called investigators, known as regional investigators. Those investigators carried cards signed by the president, authorizing them to make themselves known to prospective litigants and members of the Brotherhood, to identify themselves and show that they were speaking for the Brotherhood; that those investigators would then go upon the happening of an accident, by virtue of the fact that each secretary of each lodge was required to notify the Grand Lodge, immediately upon the happening of an accident that had happened. The investigator would then undertake to investigate, reports would be sent by the investigator of the accident, both to the Brotherhood's Legal Aid Department, and also to regional counsel. These regional investigators carried contracts, solicited employment of regional counsel, and got signed contracts for employment whenever the person could successfully do so. That system is, in general, the way this thing came about in 1930. It is the system that has from time to time, with variations, prevailed throughout the United States, in the operation of this Legal Aid Department. From that time, until, as we allege, right now.

Now, if Your Honor please, the complaint in this matter was not only against the Brotherhood, but against [fol. 10] one Bernard Savage, a lawyer who is licensed to practice law in Maryland, but not in Virginia. And likewise, against a man named Tingle, who was and is the regional investigator of that area that is assigned to Mr. Savage's office, and operates through Mr. Savage and the Brotherhood in the matter in which I have described.

Now, we will show to you at the appropriate time, that through a long series of negotiations with the Brotherhood, through Mr. Savage, acting for it, and as its representative and as its counsel, the Third District Committee of the Virginia State Bar undertook for a long period of time to have the Brotherhood cease this method of operation and to have Mr. Savage stop letting himself, as a lawyer licensed to practice in Maryland, engage along with the Brotherhood as its representative, and to use Tingle as its regional investigator, to solicit for his own benefit and that of the Brotherhood, these cases.

Now, if Your Honor please, we will show at the appropriate time, that Mr. Savage, on behalf of the Brotherhood, made many efforts to try to come to some agreement with the Bar Association about this matter, and discussed it over a considerable period of time. Mr. Savage was very anxious to reach an agreement on his own behalf. Mr. Savage is not a resident of Virginia. Mr. Savage has been [fol. 11] served, by having the complaint delivered to him by, I think they call it, the Sheriff of Baltimore City, and so has Mr. Tingle. They have declined to appear, and I remind Your Honor that they are not parties before the Court, notwithstanding that they could have counsel in Virginia.

Now, Your Honor, the answer which is the next paper that I wish to refer to, in my judgment, is a most unusual instrument. That is paper No. 3, I believe, sir. Without going into the details of the specific admissions and denials contained in the first three paragraphs which I deem at this moment to be unimportant, because they are included in the summary that I expect to speak of, contained in the further paragraphs.

Now the Answer says in Paragraph 4, you note this admission: "This respondent Brotherhood admits that the defendant, Norris W. Tingle, is an employee of this respondent and denies all other allegations in Paragraph 4."

In Paragraph 3, I point out that "respondent Brotherhood admits that Bernard W. Savage is designated as one of its legal counsel."

Now, in 5, it is stated that the "Brotherhood admits that this defendant, prior to January 1, 1959, maintained

a department which was designated, Legal Aid Department, and further admits that the said department collected [fol. 12] information which was and is valuable to those who are interested in the welfare of railroad employees."

"Respondent further avers that on January 1, 1959, the said Legal Aid Department was redesignated as Department of Legal Counsel. Respondent denies all other allegations of Paragraph 5 of the Bill of Complaint."

Now, answering Paragraph 6 of the Bill of Complaint, "respondent Brotherhood admits that when a lodge member is injured or killed in the course of his employment, he or his family or estate notifies the lodge. Respondent further admits that prior to the change of April 1, 1959," if I may digress here—if Your Honor please, we will refer at least, I have fallen into the habit of referring to April 1, 1959, as the "magic date." It will play a large and great part in the hearing before Your Honor, because, in simple language, that is the date upon which the defendant claims to have become sanctified.

"Respondent further admits that prior to the change of April 1, 1959, hereinabove more particularly set forth, that the lodge in some cases notified the Legal Aid Department." Notice, if you will, that language, "in some cases." It will bear a very important part upon the question of admissibility of some of the exhibits here, to which I understand by briefly looking at these motions, there have [fol. 13] been taken some objections. (Continuing)—notified the Legal Aid Department, and admits that in some cases, the Legal Aid Department notified the regional or legal counsel of the injury or death, and further admits that in some cases members and employees of the respondent recommended that regional or legal counsel be consulted before the settlement of claims."

"Respondent denies all other allegations in Paragraph 6."

Now, to digress there for a moment, to make clear the position of the Virginia State Bar and its relationship to that phase of the Answer, in sum and substance that paragraph related to what we will look at in the Answer in the further particulars and the calls and other responses.

In sum and substance, the Answer and defense presented to the Court by the Brotherhood defendant here is that "up until the magic date, April 1, 1959, we agree that we were at fault, and we did all of these things that you said, but after April 1, 1959, we have been pure as the driven snow. Not only in Virginia, but elsewhere, throughout the United States, and we have not committed one sin thereafter." And the basis of the defendant is a very acceptable principle of law, that if an act is sought to be enjoined and the act has ceased to be performed, and there is no likelihood [fol. 14] in good faith of the repetition, then the injunctive process will not be thwarted.

Now, if Your Honor please, that presents the crux of this situation, and I submit, presents the succinct burden which the Bar feels it is under the obligation to establish; namely, that this promise of a cessation, that they are now and will be forever after pure, is not in good faith, but wholly in bad faith. And the reason for that assertion is that we propose to show to the Court and can show to the Court by the records in other courts, that this exact defense has been made to other courts throughout the United States innumerable times by innumerable officers, and by all of the presidents of this association that have ever existed, and as soon as the heat got off, they went right back to the same practice again. And on that basis, we expect to show Your Honor that there is a reasonable likelihood that they will not desist from the admitted bad practices; and further, we will show to you by the depositions that have been taken, that those practices are today continuing, not only in some seven other states of the United States in which we have happened to catch them at it, but also in the State of Virginia.

Now, reading No. 7 paragraph, answering Paragraph 7, "Respondent Brotherhood admits that regional and legal counsel handled such matters on a contingent fee basis, [fol. 15] admits that prior to April 1 that regional and legal counsel supported the Legal Aid Department, or the Department of Legal Counsel, by contributions based on the ratio which the individual counsel's gross amount of settlements bore to the total settlements of regional or legal counsel throughout the country."

And, if Your Honor please, to digress again—and when we get to that stage of the proof, I think that Your Honor will be staggered by the terrific amount of these fees throughout the country, that have been earned by these sixteen or seventeen regional counsel, during the years, running into the millions of dollars.

"Further answering respondent avers that individual counsel had agreed with this respondent as to the fee to be charged members of the Brotherhood prior to April 1, '59. This respondent denies all other allegations in answering Paragraph 8. Respondent Brotherhood denies all allegations therein and avers that prior to April 1, '59, it engaged only in those practices alleged which it has previously admitted herein."

"Respondent Brotherhood denies"—that is where it becomes significant in some instances—and we propose to show to Your Honor exactly what this plan was, exactly how it operated, how it began in 1930, and how it has been [fol. 16] operating ever since in every detail throughout the country.

"Respondent Brotherhood denies the allegations set out in Paragraph 9. Respondent Brotherhood will show unto the Court as follows: A. That on a referendum question 9 in majority vote from the members of the lodges of the trainmen in the United States in 1930, the Brotherhood established a Department of Legal Aid Department. The said Legal Aid Department was subject to the provisions of the constitution of the trainmen and to the authority of the president of the Brotherhood." We will point out to you at the appropriate time that under this constitution, the president is the sole authority to operate this department.

"B." Now, this is the significant paragraph, sir, I think.

"Paragraph B. Respondent Brotherhood further shows that after April 1, 1959 it eliminated certain practices in the operation of this Department of Legal Counsel, which had been determined objectionable; that the Brotherhood at its own expense investigates accidents of its members so that they will be acquainted with the cause of said accidents, and by so doing, it will be able to remedy any vio-

lation of the Federal Employers Liability Act and the Safety Appliance Act. The result of such investigation is [fol. 17] made available solely to the injured person or family."

We propose to show that to date that that is not correct. Now, if Your Honor please, with regard to the magic date, the magic date of April 1, 1959, came through the decision in the State of Illinois known as the Illinois decision, and will be referred to as such, throughout this hearing. On May 23, 1958, the Supreme Court of Illinois in a motion, the details of which we will show to you at the appropriate time, and the reasons why it was brought about and all about how it happened to be rendered on that date, as the result of a declaratory judgment proceeding instituted by the Brotherhood itself, declared that certain things were illegal, improper, and could not be done, and that is the "so-called" Bible upon which the Brotherhood now predicates all of its future, supposedly future operations, and upon which it claims "that we are subscribing one hundred percent to the Illinois decision," and the Illinois decision as to paraphrase Mr. Kennedy, "If that is good enough for Illinois, and Cook County, Illinois, it ought to be good enough for Virginia."

Now, incidentally, the New York Court has, under one occasion, certainly, that I know of, said that "whatever you people in Cook County, Illinois may think is moral and just, isn't going to bind New York, because we [fol. 18] don't agree with you."

Now, if Your Honor please, that decision came out on May 23, 1958. Now, in the decree, they allowed the Brotherhood until July 1, 1959, more than a year, within which to get its affairs in order, and to make up a new system by which they could operate, that would not violate the provisions of the Illinois decision.

Now, the facts are as testified by the president of this defendant, that they didn't undertake to put those things that were said by the Illinois Court were just and proper and those that were said to be wrong, they didn't change them until April 1, '59, practically one year subsequent thereto. On March 30, '59, we will show to you, the day

before this so-called magic date, and nearly a year after the Illinois Court had at its own instance, told them what they couldn't do; and specifically, one of them was to make these contributions. On March 30, their financial records show that they accepted thousands of dollars on the last day of their own-appointed time from all of these regional people that contributed by way of maintaining this Legal Aid Department.

Now, the good faith proposition here, as to whether or not they are following the Illinois decision, has many facets, as [fol. 19] you will see when we get through this tremendous amount of testimony and documentary evidence. That, notwithstanding, they had themselves asked the Illinois Court, in effect, to tell them what they could do and what they couldn't do, the Court told them they couldn't do it, they still did it for another year, because they say the Court "didn't require us to do what we ought to do up until a fixed date."

Now, we think that goes to the issue of good faith. A good many of these proceedings went on right exactly under the old system, right up until the immediate deadline, and many of them went on and flopped across. Now, in addition to that, if Your Honor please, we will show you by the depositions that have been taken, that in instances throughout these other states, that there are still going on, the exact, same system of operation between regional counsel and, in the words of Mr. Kennedy, that "We see no reason to change it until somebody jumps us about it and makes us stop." Now that is the effect of this whole situation.

Now, interrogating Mr. Kennedy on June 1—

The Court: Who is Mr. Kennedy?

Mr. Bowles, Jr.: Mr. Kennedy is the president of this Brotherhood.

In Cleveland, on June 1, 1959, going back now to the basis upon which the investigation into the character, [fol. 20] integrity, reputation, and so forth, and some of these individual lawyers they appointed as regional counsel, we went back with him in his deposition over every one of these past instances in which the Brotherhood had been

taken before the Court, and been made to stop these very practices, and in which they have come into court and made, in many instances, consent decrees and other involuntary decrees, making them to stop, injunctions; and then thereafter go right back to the same practice again. He was familiar with all of those, and, moreover, in the recent ones which we expect to show to you, he was the person that had charge of the litigation, and directed its performance in each of those places.

Now, we feel that they have a material bearing upon the issue of good faith here, and in showing the whole course of this performance and what has happened, how the thing began, what its system was, how they have been repeatedly told that you cannot do this, and they have come in and said, just as they have said to you, "Now, we are certainly going to stop, we wouldn't think of doing anything like this hereafter," and they have gone right back to it over and over, through two presidents and on innumerable instances and occasions; and in conclusion, we expect to show to you that that has happened in Virginia within the [fol. 21] last year, notwithstanding the magic date of April 1, 1959.

I submit to the Court that if under those circumstances we are able to establish to the Court those things, that the Bar would feel that we should be entitled at the hands of this Court to an injunction directing that they cannot continue those practices in the State of Virginia in the future.

Now one other thing, sir: Mr. Kennedy took the position in his deposition that they were only anxious to find out what they could do, and to be told by proper authority what they could do, and they would abide by it, and the concluding statement in his deposition is, "I would not object to whatever decree the Judge of the Chancery Court of the City of Richmond undertook to enter that would instruct me as to what under the law of Virginia, we can do and what we cannot, and we will abide by it."

Now, the situation is such, if Your Honor please, that this organization, this stupendous, as I say, ran up into millions of dollars—stupendous situation of practically every FELA case, any injury or death arising under that

statute in the entire United States, is by the process of this system.

Whenever those people are members of the Brotherhood of Railroad Trainmen, they are channeled into [fol. 22] sixteen lawyers, or seventeen lawyers, whatever they may happen to be, and they and they alone, undertake and try to handle that litigation.

Now, one other thing that I would like you to bear in mind as you hear this evidence, and that is this: that you will find as it is presented to you, that I have in mind one situation, for example, that is testified to in these depositions where the man who was taken to the lawyer by the runner to sign a contract, and the lawyer says, "I don't know whether or not I want to take this case or not," now that is significant on this aspect of it, because another aspect of the thing you will find Mr. Kennedy testifying that the little cases are to be handled at the lower level, and that the lawyers aren't to be bothered with, and it is only when you get into the place where they are the kind of cases with amputations and real injuries, where you get into the big money, that then is when this system really goes into high gear, and the solicitation gets to be one hundred percent, and they follow people and dog them day and night until the contract gets signed. Now that distinction is sought to be, and will be sought in this evidence, to be shown to you, that that distinction is a statistic. We submit that the distinction is statistical in the sense of how much money can be made [fol. 23] out of it, and it is shown in several of these instances. This is a colossal matter. It involves some 170,000 or 200,000 potential, or the members of potential accident situations in which are channeled and funneled by this method into just sixteen or seventeen lawyers in the United States.

Now, one final and further thing. Mr. Kennedy takes this viewpoint: That the Virginia State Bar is very unjust, very unfair, very unreasonable, because, he says that on account of this suit in which he is not able to find out, because we won't hurry along with it to suit him fast enough, because in this suit he can't find out what he can legally do, notwithstanding that he claims he has been told what he can

do. That on that account, all of his members in the State of Virginia are being deprived of this service, and it is our fault that they aren't getting what they are supposed to be paying for, namely, legal advice, and he admits very freely, that his Legal Aid Department is set up to render legal advice about FELA, and they will appoint these lawyers to give the advice, and if they can get them into their hands to represent them when they undertake to go into court.

Now, that is our case, Your Honor, and I submit that when we get through, I think everything that I have said to you will have been substantiated.

If Your Honor please, I don't know what the situation is [fol. 24] about witnesses, but it would seem to me probably a good idea to request that they be excluded.

The Court: Well, not at this time. They weren't excluded during your opening.

Mr. Bowles, Jr.: What is that, sir?

The Court: They were not excluded during your opening.

Mr. Bowles, Jr.: Well, I am sorry, sir. I had intended to—

The Court: I will hear that motion at the conclusion of Mr. Stallard's statement.

Mr. Bowles, Jr.: I beg your pardon, sir. I didn't realize that distinction, but I had reference to testimony, rather than what I had said.

The Court: You are going to make an opening statement before you put on testimony, I assume?

OPENING STATEMENT BY MR. STALLARD

Mr. Stallard: Yes, Your Honor, the Bill of Complaint here charges not in any specific language, but charges the Brotherhood with unlawful practice of law. It does not point to any statute. I assume it has reference to the integrated Bar and to the canons of ethics established under the statute by the Supreme Court.

The complaint alleges that the Brotherhood had an arrangement with certain regional counsel, that is, that the [fol. 25] regional counsel handled cases of injured members of the Brotherhood. We admitted that that was true prior to April 1, 1959, the magic date.

Now, let's see why we admitted that we had done that in Virginia up until April 1, 1959. Throughout this country, there had been certain lawsuits brought against individual members of the Bar alleging that they were guilty of unethical practice. Finally, a lawsuit was brought against counsel of the regional counsel and general counsel of the Brotherhood in Chicago. The president said that he was going to bring a suit, and did bring a suit, in the Illinois Supreme Court under a statute alleging everything alleged in this court. As a matter of fact, the declaration was almost the same language, or at least, the idea was there.

The Supreme Court of Illinois appointed one of its former justices, Justice Thompson, to be the Commissioner, Special Commissioner, to hear evidence. We alleged that—the exact allegations here—that the Brotherhood had regional counsel throughout the United States. They had regional investigators for the purpose of getting statistical information to handle it before the ICC. If an accident happened, why did it happen? The ICC wanted to know. The railroads wanted to know. But, in gathering that information, it was given also to the lawyers who, as my [fol. 26] adversary says, the investigator, many times pushed the case into the lawyer's lap. We admitted that.

The Supreme Court of Illinois, Justice Thompson, took the evidence, and these are the people participating: The Bar of Chicago; the Bar of Illinois; the American Bar Association; twenty-seven railroads participated with briefs and evidence. The suit was instituted several years ago, to find out what can this Brotherhood do. The Illinois Supreme Court came down with a decision which went into effect in July, '59, but the Brotherhood put it into effect several months before. They said, "You can do the following: You can have your investigators." We expect to prove now that we don't have investigators. We have done away with those investigators. "You can make those reports available to your members. You can use those reports in statistical reasons before the ICC. You can also recommend general and specific lawyers who know something about the handling of cases under the Federal Employers Liability Act, who are scarce; but these things you cannot

do," and these are the things we say we are not doing in Virginia.

They say, "You cannot tell a lawyer that he can charge 25 percent, or any fee. You can't tell him that. You cannot accept any money from that lawyer to maintain your Legal Aid Department, which now is called the Department of [fol. 27] Legal Counsel. You will have to discontinue those things."

We respectfully submit that we are carrying out the Illinois Supreme Court decision, and here is where I am going to challenge my counsel adversary. He said that President Kennedy says he is going to carry out that in Virginia. President Kennedy says he is going to do what this Court tells him to do. He is not doing anything in Virginia. He says he is not doing anything which is illegal; things are lying dormant in Virginia, because we don't know what Virginia wants. Virginia may not accept the decision of Illinois.

Let's go back to the regional counsel; originally they were called, Your Honor, regional counsel, sixteen of them. They were doing exclusive work in damage cases under the Federal Employers Liability Act, and the Safety Appliance Act, but the Brotherhood—and they call it a union, but the name doesn't connote union; ninety percent of its business is as an insurance business. It is a large company. Millions of dollars are involved because railroad men work on very dangerous jobs. Other insurance companies will not insure them. They had lawyers that handled injunction proceedings; proceedings before the Interstate Commerce Commission, then they had the regional counsel who handled only the cases, damage cases. In 1959, they consolidated them. [fol. 28] Now, the regional counsel is no longer. He is legal counsel. He handles all the work of the Brotherhood. If damage cases are referred to him, though improperly, but if they are referred to him, he has the ability and he is the same man who has been representing them for years.

Now, Your Honor, after this case came down, we take the position that the evidence before Your Honor would have to be: Today, what is happening in Virginia today? Not what happened prior to April, 1959. We make admissions

in our Answer we were doing wrong, but I don't think the evidence will show we were in Virginia, but we admitted it, and therefore, we don't think we can go behind that.

Now, certain evidence has been taken here by counsel throughout this country as to what is happening in Illinois, what is happening in California. We are going to show that that evidence doesn't have anything to do with the case in Virginia. The issue in Virginia, is: What is the defendant Brotherhood doing, is it practicing unauthorized law? If it is, it ought to be enjoined in Virginia.

Now, we don't care what happens in other states, because they have different statutes, but we respectfully submit that the evidence will show you we are not practicing law in Virginia; that we have certain constitutional rights, and I would like to refer to my Answer, that this railroad Brotherhood [fol. 29] hood union, if you want to call it that, or insurance company, that it has certain constitutional rights which were recognized in the Illinois decision. They could have their investigators; that the investigators could make available to their members certain information gathered; that they could also recommend attorneys, generally and specifically, but they could not have any tie-up with attorneys, any 25 percent; they could not take any kick-back, so to speak, to maintain the department.

Now, if we show Your Honor that all we are doing now is what we say is constitutional in the action filed in this court, it is Paragraph 9, Sub-section C, we take this position—

The Court: That is your Answer?

Mr. Stallard: Yes, sir. It is an Amended Answer, Your Honor.

The Court: Wait a minute. Let me get the papers before me. The reference that you have mentioned is—what is the reference that you were going to read from?

Mr. Stallard: It is Paragraph 9, Paragraph 9 of the Answer, adding a paragraph, Sub-section C.

The Court: Yes.

Mr. Stallard: The respondent alleges that it has the legal right, it has the constitutional right to advise with its [fol. 30] members, give them any information it has, and

also to advise lawyers generally or specifically, but not to channel business. I don't think it has that right. That would be our evidence, Your Honor.

COLLOQUY BETWEEN COURT AND COUNSEL

Mr. Bowles, Jr.: If Your Honor please, as I have previously intimated, a large part of this case is documentary. I think that most of it comes from the call, and has been produced by the defendant in response to those calls, other documentary proof that we wish to show here to the Court. We have, in response to the Court's order, given Mr. Stallard copies with the indication of each one of them, and have told him what they were, and they are all, in our opinion, equally available to him. Those are certified records showing the history of this transaction. Now, Mr. Bowles, III has prepared a seriatim list of these exhibits that we wish to introduce, and I think, sir, if we may be indulged, it might be helpful to you if, at the time of the introduction, we made some brief statement to you as to what that exhibit purports to show, and if that were carried into the record, might form some sort of a kind of index for you as to these exhibits, which number up into the 200's. I am sorry I have to advise the Court of that fact, but it would seem to me that that would be a useful thing to the Court, if Your Honor will agree.

[fol. 31] The Court: Any comment, Mr. Stallard?

Mr. Stallard: Yes, sir, I would object on behalf of the Brotherhood, to the introduction on the ground that the defendant was not a party in many of the cases, and therefore, nothing in the case would be binding upon the defendant. A copy of an opinion is not the best evidence and is not material to the allegations of the plaintiff's Bill of Complaint against the Brotherhood.

Mr. Bowles, Jr.: Well, Your Honor, we hadn't gotten to that yet.

The Court: Your attention is directed to all 200 and some, would it be wiser for you to object to each one as it is offered in evidence, and a statement made as to the purport, or the interpretation of it; would you make your objection then?

Mr. Stallard: I could make objection to each one, Your Honor, but I think it would delay, and if you will let the objection run to all of these opinions, which I understand that he is going to introduce; I didn't know there were going to be 200. I only thought there were going to be some—we have got 10 on one paper, and 7 on another, I believe.

Mr. Bowles, Jr.: I think Mr. Stallard has not comprehended exactly what I had said to Your Honor. Most of [fol. 32] these exhibits that we wish to offer, and up to a certain point, they will all be exhibits that have been produced in response to call from you, and you have produced them here in response to our call, and we would like to present those to the Court at this time, in an orderly fashion, so that the Court will see the relative connection of each to the other. The question that I was addressing myself to was, of course, understanding that at the presentation of any exhibit, you would have the appropriate right to object to it for whatever reason you saw fit, but to save the trouble of the Court having to stop and read each exhibit as it is presented, we would like the privilege of making a very short statement to the Court, what it purports to show; what its relationship is to this case, and what its contents are. Now I don't see what objection there could be.

Mr. Stallard: Your Honor, I thought he had reference to the opinions of various Courts, and I would withdraw my objection.

The Court: At this time?

Mr. Stallard: Yes.

The Court: You withdraw?

Mr. Stallard: Yes.

The Court: The Court suggests that the procedure be adopted as indicated at the bar. The exhibits that are [fol. 33] going to be offered one at a time, counsel for the plaintiff will indicate its bearings and point of view, and read to me such parts of it as are mainly pertinent.

Mr. Bowles, Jr.: Yes, sir.

The Court: I think then, it would be in order for counsel for the defendant to make a brief answer, and read other parts, if he wants.

Mr. Bowles, Jr.: I would think that that would facilitate the performance.

The Court: It may be tedious and slow, but it will be more orderly, and it will help me eventually, because I do hope that the case is going to be fully presented. All the time necessary for the presentation has been accorded by the Court, and will be accorded by the Court. I am hoping that after the presentation of the evidence and the arguments that it will not be necessary, and counsel would not expect me, to take it under advisement and read these documents. Do I make myself clear?

Mr. Bowles, Jr.: That is exactly the purpose that we have in mind. May I illustrate one situation, sir?

The Court: Well, I am in accord with you.

Mr. Bowles, Jr.: All right, sir.

INTRODUCTION OF PLAINTIFF'S EXHIBITS 1 THRU 31
WITH COMMENTS OF BOTH PARTIES

Mr. Bowles, III: If Your Honor please, I would like to introduce in evidence an early copy of the constitution of [fol. 34] the Brotherhood of Railroad Trainmen, which has heretofore been produced by the defendant, as Exhibit No. 1, in response to the first call for production of documents.

Mr. Stallard: No objection, Your Honor.

The Court: No. 1 received, Plaintiff's Exhibit No. 1.

(Plaintiff's Exhibit No. 1, Constitution of the Brotherhood of Railroad Trainmen, was marked and received in evidence.)

Mr. Bowles, Jr.: Now, Your Honor, we have undertaken to give these exhibits numbers in advance, because the cross-references are going to be so confusing, unless we maintain some kind of a system, and if we can presume to request that these be marked in accordance with our designation, we would like it. We have already done it with the first one.

Mr. Bowles, III: I think it will greatly facilitate things, Your Honor, in regard to that exhibit, Your Honor, the pertinent or more pertinent pages would be pages 8 and 9.

The Court: Are all of your exhibit tabs fixed like this?

Mr. Stallard: No.

[fol. 35] Mr. Bowles, III: No, they are not, sir, but those tabs were fixed by the defendant when they were filed in response to the call. That is the exhibit number in response to the first call. I have not attached tabs on them, although I can arrange to do that.

The Court: Well, this is a complete tab, Exhibit No. 1. All that is necessary to put on there is filed with the date, my initial. That would complete the document.

Mr. Bowles, Jr.: I would think so.

The Court: Plaintiff's Exhibit No. 1 is now filed properly identified by the initials of the Judge. Now you wish to make a statement?

Mr. Bowles, III: For Your Honor's convenience, pages 8 and 9 have to do primarily with the authority of the president. Pages 10 and 11 have to do with the authority of the secretary of this organization, whereas on pages 62, 63, 64, and 65 are parts dealing with the establishment of this Legal Aid Department. That is, as you can see, quite a lengthy document, and on my examination of it, I could find that they are the only parts that have reference to the situation we have under discussion here.

The Court: Well, would it not be in order, as suggested, for the purport of that to be—

[fol. 36] Mr. Bowles, III: I can briefly summarize that.

The Court: That is what I want.

Mr. Bowles, Jr.: You have got an exhibit of those things separate.

Mr. Bowles, III: The duties of the president are merely put in to show that the president has the authority to set up such an organization as the Legal Aid Department, and that the president and secretary together have the authority to finish such a setup, and then under a ruling on Section 19 of the constitution which appears on page 62, there is a brief discussion of some difficulty that the Legal Aid Department have in obtaining these reports of injuries in the states that a special circular was sent out requiring that the secretaries of all lodges from this date on, which is in 1930—when we get to that exhibit, I will have the exact date—that the secretaries of all lodges be responsible

for making this report. Prior to that time, apparently it was up to any member of the lodge. Those are the relevant parts, as I see them, of that exhibit.

The Court: These reports have to do with what?

Mr. Bowles, III: These reports have to do with the injuries or death of a member of the lodge, that are sent in by the local lodge to the Legal Aid Department. It is a [fol. 37] report that will be referred to later on as Form LA-1, Your Honor.

The Court: Yes. Now, in brief, those are portions of the duties of the secretary that you wish to call to my attention, I believe. The duty of the president, to which you call attention. Will you repeat that?

Mr. Bowles, III: The duty of the president is not so much a duty, Your Honor, but that he has the authority under the constitution of this organization, in the absence of the meetings of the governing body, to establish such an organization as the Legal Aid Department, or any other organization that he might wish to establish.

The Court: Would you be good enough to point out that passage to me?

Mr. Bowles, Jr.: Would you like to have photostatic excerpts from that thing, Your Honor?

The Court: What is the exhibit number of the paper you have in your hand?

Mr. Bowles, III: Well, it would have to be Exhibit No. 1-A, Your Honor. I had not planned to offer this, but it can be done. These are just excerpts.

Mr. Stallard: I would not object to that, Your Honor. It will just save time, and it is taken from our constitution. [fol. 38] Mr. Bowles, III: These are excerpts taken from the constitution that is in a very general nature of those duties, Your Honor.

The Court: Plaintiff's Exhibit 1-A, photostatic excerpts from the constitution of the defendant, is now introduced, filed, properly identified.

(Plaintiff's Exhibit No. 1-A, excerpts from constitution, was marked and received in evidence.)

Mr. Bowles, III: It would perhaps be easier at this time, Your Honor, to also introduce a later copy of the consti-

tution. It is just a newer one. I can see that there have been no changes in regard to the sections that we are discussing.

The Court: This is marked on the tab Defendant's Exhibit No. 2.

Mr. Bowles, III: That was with the second further call for production of documents.

The Court: You are offering this now in this case, as Plaintiff's Exhibit No. 2?

Mr. Bowles, III: I would prefer it to be Plaintiff's Exhibit No. 1-B, if that is convenient with the Court.

The Court: All right. Plaintiff's Exhibit 1-B.

[fol. 39] (Plaintiff's Exhibit No. 1-B, a constitution of the Brotherhood of Railroad Trainmen, was marked and received in evidence.)

The Court: Do you wish to point out any specific portion of that?

Mr. Stallard: I didn't get that. I got 1-A. What is 1-A?

Mr. Bowles, III: 1-A is the photostat of the excerpts.

Mr. Stallard: What is 1-B?

The Court: 1-B is the later constitution.

Mr. Stallard: That is all right.

The Court: Did you have any comments to make on that?

Mr. Bowles, III: Other than those I have already made, Your Honor. I think not.

The Court: You haven't made any on 1-B, have you?

Mr. Bowles, III: That it is substantially the same.

The Court: I see.

Mr. Bowles, III: I would like to offer into evidence a report of A. F. Whitney, who was president of this Brotherhood, [fol. 40] written to him by Mr. T. J. McGrath, who was general counsel of this Brotherhood, dated July 24, 1929, which is a pamphlet consisting of 16 pages describing the situation in West Virginia, and was heretofore identified as Defendant's Exhibit 3-B, in response to the second further call for production of documents, and I would like to have this marked Plaintiff's Exhibit No. 2.

(Plaintiff's Exhibit No. 2, a report, was marked and received in evidence.)

The Court: You are now going to comment on this, I suppose?

Mr. Bowles, III: Yes, sir, very briefly.

The Court: Plaintiff's Exhibit No. 2, filed and identified, the report of T. F. Whitney.

Mr. Bowles, III: That, sir, is a report made by Mr. McGrath; who was general counsel of the Brotherhood prior to the establishment of the Legal Aid Department, and it purports to show the difficulty that members of the Brotherhood were having, in obtaining lawyers and adequate legal advice in regard to injuries sustained primarily in the State of West Virginia. They seem to pick that as the principal trouble spot, from their standpoint, in this country.

The Court: Did you wish to read any excerpts from this [fol. 41] to me?

Mr. Bowles, III: I don't think that that would be beneficial, Your Honor. It is merely a list. It goes and lists each individual man's case and what happened to him, how they felt he was mistreated, and what-not. It is merely a background material.

The Court: Did you wish to make any comment?

Mr. Stallard: No, sir, I do not. I might say it only gives a background of why this department set up a regional in 1930.

The Court: 1929.

Mr. Stallard: It came along in '30, just a preliminary report. I might say, Your Honor, that that does show that the members were being abused, so to speak, and could not hire lawyers, that lawyers would not take their cases, that the railroad employed most of the good lawyers, and they could not find anybody to take their case. Therefore, the railroad brothers had set this department up as a defense against the railroads for the members were being very badly treated.

Mr. Bowles, Jr.: For a defense against the lawyers that they were getting at that time is what we got out of that.

Mr. Bowles, III: It also mentions in there, Your Honor, [fol. 42] that West Virginia had in 1928, I believe, passed an anti-solicitations statute and that because of that, that certain of their members were not being afforded the op-

portunity of meeting counsel then as they had in the past. I would like to introduce next, Your Honor, special circular No. W-24, which is dated January 22, 1930, consisting of 4 pages and purporting to be a referendum questionnaire with an attached ballot on the general subject of: "Shall a Legal Aid Department be established?" Now, this was heretofore filed by the defendant as part of Exhibit 2 in response to the first call for production of documents, and I would like the Court to mark that as Plaintiff's Exhibit No. 3.

The Court: Special circular No. W-24 identified and filed as Plaintiff's Exhibit No. 3.

(Plaintiff's Exhibit No. 3, a pamphlet, was marked and received in evidence.)

Mr. Bowles, III: Now, briefly, Your Honor, the contents of that document, beginning with a brief discussion of FELA, it was passed in 1910. It discusses a resolution that was adopted by one of the governing boards, to set this plan in motion, and then the details of the plan. Generally, the bureau will be established where the injured member may apply as to information as to his legal rights, and that [fol. 43] the president will supervise this plan; that the bureau itself will not negotiate settlement, but that certain regional counsel will be appointed throughout the country, and that the members can rely upon these lawyers hired; that their fee will not exceed 20 percent, and the lawyer is to advance all necessary expenses, to help the fellow out in his situation; and the control, however, is to be retained by the plaintiff as to possible settlement of his case without suit being filed, because there seems to be some practice by the railroads that where a suit is filed by a member, he has difficulty getting a job on any other railroad after that point; so that provision was put in there.

The Court: You are speaking of No. 3 then?

Mr. Bowles, III: Yes, sir; Exhibit No. 3.

The Court: Do you have any comment?

Mr. Stallard: No comment.

Mr. Bowles, III: I would like next to introduce the special circular No. W-28, dated April 15, 1930, which con-

sists of 4 pages, purporting to announce the establishment of the Legal Aid Department and outlining the plan in detail. This was heretofore filed as Exhibit No. 2, or part of Exhibit No. 2 in response to the first call, and I would like to have the Court mark this as the Plaintiff's Exhibit No. 4.

The Court: Special circular No. W-28 identified and filed [fol. 44] as Plaintiff's Exhibit No. 4.

(Plaintiff's Exhibit No. 4, W-28 form, was marked and received in evidence.)

Mr. Bowles, III: Now, this document, Your Honor, shows what the vote was on this referendum questionnaire, which was Exhibit 3, and goes into more detail in discussing what the members can spend in the establishment of this program. I don't think it is necessary to go into this in detail at this time. You will pardon my delay, Your Honor, but Mr. Stallard seems to be over-anxious when he staples things together.

I would like next to introduce a copy of the Rules and Regulations governing the relationships of regional counsel and the Brotherhood of Railway Trainmen, Legal Aid Department, which consists of 3 pages, which purports to be the contract or the form of a contract that was entered into between regional counsel and the Legal Aid Department. This also was heretofore filed by the defendant as part of Exhibit 3, in response to the first call for production of documents, and I would like, if the Court would, that it be marked Plaintiff's Exhibit No. 5.

The Court: Identified, so marked, and filed.

(Plaintiff's Exhibit No. 5, a copy of the Rules and Regulations in regard to regional counsel and the Brotherhood of Railroad Trainmen, was marked and received in evidence.)

Mr. Bowles, III: Now, just briefly summarizing this, Your Honor, it begins to the effect that lawyers have been selected in various railroad centers, and were selected with a view to rendering service officially and convenient to the members in the total membership in that area, so

as to give reasonable assurance to the lawyer of a sufficient volume to warrant the rendering of proper service on the compensation agreed upon, and that articles will be published in the *Trainmen's Journal*, which was at that time, a monthly journal. They now have a weekly journal, as I understand about the Legal Aid Department; how it would work, and that each month as the journal came out, there would be a page or part of a page devoted to a listing of regional counsel, and where they could be found and what territories they were assigned to.

The basic plan as set out is that when an injury occurs, that a report will be made to the department and the department would send a copy of this report to regional counsel and if they felt it necessary, send a regional investigator. This was only done, as you will note in there, Your Honor, I believe at the top of the second page, or near [fol. 46] to it, that they apparently are only interested in major injury cases. They are not interested in the small or more trivial ones.

The Court: Now, what is that you said, top of the page?

Mr. Bowles, III: Excuse me, it is on the first page at the beginning of the fourth paragraph.

The Court: Yes, I see it there. It is also near the bottom of page 2.

Mr. Bowles, III: And it says later on, and I am just paraphrasing, that where the member is unable to make a settlement directly with the railroad, he will be referred to the regional attorneys and the contracts will be made; that regional attorneys are required to report all cases handled by them, to the Brotherhood's Legal Aid Department, and again, that the members there have control over settlement of their cases without filing suit or they could not work again with the railroad. There is also a statement in there that there is no requirement that a member use the regional counsel assigned to his particular area, but that he may use any of them.

Mr. Stallard: I would like to comment on that, Your Honor.

The Court: Yes.

Mr. Stallard: It will be shown that the small [fol. 47] cases that my adversary refers to, are grievances,

where a man might get his finger mashed and he and his superior or grievance committee could settle it; maybe he is off one or two days from the railroad. It is not thought that counsel would be really under the grievance clause; they can settle it direct by hearing of the grievance committee. They call him a grievor. He goes with the man and the railroad pays for one or two days he is off. He has mashed his finger, and he is all right, and he is back to work, so it was not set up to ignore these little things. The Brotherhood is interested, but it was thought that it would be insignificant; it would cost too much to go out and see a lawyer, because it really might involve just two days' pay, maybe twelve or fifteen dollars. Now, the other comment I want to make, this contract provides that the member can employ any counsel he wants to. He does not have to go to counsel who is called regional counsel for the Brotherhood. He can go to any counsel, and the only reason that the Brotherhood would recommend their counsel, he is very well schooled in the Federal Employers Liability Act and the Safety Appliance Act, and general lawyers are not specialized.

The Court: Now, Mr. Stallard, you are not trying to justify what we may call the setup under this?

Mr. Stallard: No, I am only replying to his explanation [fol. 48] nation. I don't object to it at all. I am not trying to even justify it, because I have said in my Answer, that this is wrong. The Illinois Court so finds, and if Your Honor felt that you should enter an injunction; we take the position that the injunction should be taken in consideration that they can't do these things, but they could have certain constitutional rights, which Your Honor could not affect by your decree, but this clearly is wrong. We have admitted it in our Answer, and when you put on all of this preliminary, we say that the conclusion was wrong. It was absolutely unethical, in my opinion, but we say we are no longer doing it since April, since the Illinois Court told us we could not do it.

Mr. Bowles, Jr.: May I make one further statement, sir?

The Court: Yes.

Mr. Bowles, Jr.: The inference which we submit will be appropriate to be drawn from this background at the appropriate time, when we show you other things, goes further than the very meritorious statement that they are not limited by any relations of the Brotherhood controlling of its members, that they must use these counsel, nor to the proposition particularly, that it is obviously proper to handle these small cases in the grievance committees, [fol. 49] and so forth, and not bother with lawyers; all of which certainly is obviously proper and appropriate, but, as the plan got into operation, what we intend to show to you is that the further inference goes on that statement as to how it developed that from the angle of the relationship of the Legal Aid Department supported by contributions from the regional counsel, that that statement became interpreted, "Don't let's bother anything except with the big money cases," and that is what that background developed into, and that is what it is today.

Mr. Bowles, III: I would like next to introduce, Your Honor, a form entitled LA-1, consisting of one page, which purports to be the form now used by the lodges to report the various accidents of a member killed or injured, to the Legal Aid Department, or the now Department of Legal Counsel, and I would like to have that marked Exhibit 6, if I may, Your Honor.

The Court: Now, this is a form for a report from the secretary of the local lodge?

Mr. Bowles, III: Local lodge.

The Court: Made to the Legal Aid Department?

Mr. Bowles, III: That is correct.

The Court: You wish this to be Plaintiff's Exhibit No. 6? It is identified and so filed. I will ask you to wait a minute, please.

[fol. 50] (Plaintiff's Exhibit No. 6, LA-1 form, was marked and received in evidence.)

Mr. Bowles, III: That form, Your Honor, had been previously produced as part of Exhibit 3-C in response to the first call. I would like next to introduce another copy of form LA-1, which again consists of one page, and pur-

ported to be the form actually used in 1930, and this had heretofore been filed by the defendant as Exhibit 1-B, in response to the first call for production of documents. I would like this, if I may, Your Honor, to be marked Exhibit 6-A.

The Court: What is the difference between them?

Mr. Bowles, III: Apparently none that I can see, Your Honor. The form seems to be identical, the one used in 1930 and the one used today.

The Court: Identified and filed as Plaintiff's Exhibit 6-A.

(Plaintiff's Exhibit No. 6-A, LA-1 form, was marked and received in evidence.)

The Court: Now we will take a recess until twelve o'clock. The Court will proceed in these hours: From 10 until 1, with a brief recess; from 2:15 until 5:00 with a brief recess. If we adhere to those hours, without expand-[fol. 51] ing them, we will make considerable progress. Meeting, however, at the 10 o'clock hour is subject to this, however: There are one or two days perhaps I shall have other motions that I feel should be handled at 10 o'clock, and we will start this case at 10:30 or later.

Mr. Bowles, Jr.: I think, sir, at this time, it may be appropriate for me to suggest to the Court that I am on call for the first case in the Supreme Court on Wednesday, and if I may ask the indulgence of the Court to do either one of two things, but one I would prefer, is that if we can so arrange the presentation of this evidence, and you are doing what is going along here now, if you would just excuse me, Mr. Bowles, III could just carry on; if you are at a stage where you would prefer my presence, I will have to ask you adjourn for long enough for me to get over there and argue that case.

The Court: When do you wish to be excused? We are going to go on a tedious and long drawn-out expedition. It appears that this will take us through Wednesday.

Mr. Bowles, Jr.: Oh, no doubt, sir.

The Court: Do you desire to be present during this particular thing?

Mr. Bowles, Jr.: During this kind of thing, if that is the way we could regulate it, I would not.

[fol. 52] The Court: You wish, then, to be excused from now?

Mr. Bowles, Jr.: No, at 9:30 until I get through over there on Wednesday morning. I will be here until Wednesday morning.

Mr. Stallard: That is perfectly all right.

The Court: I will excuse you when you want to be excused. I will look for you back thereafter.

Mr. Bowles, Jr.: We are trying to do this in an orderly fashion, sir, but I foresee that we are going to have to interrupt sometimes on account of the convenience of other people, that we can't get here to put certain so-called out-of-town, and it might be one of those out-of-town, is what I had in mind.

The Court: I want you to adhere to those hours that I mentioned.

Mr. Bowles, Jr.: Yes, sir. I may ask, if Your Honor please, too, the pressure I have been under, it makes it necessary to do so.

(Recess.)

Mr. Bowles, III: I would like next to file, if I may, another copy of form LA-1, which was previously filed as Exhibit 6 and 6-A. Now, this is a form that was actually [fol. 53] used, and again, consisting of one page, and was heretofore furnished to us as part of Exhibit 1-B, in response to the second further calling, and I would like that marked Exhibit 6-B, if I may, Your Honor.

The Court: Filed as Plaintiff's Exhibit 6-B. The date, if I read it correctly, October 9, 1930.

Mr. Bowles, III: That is correct, Your Honor.

(Plaintiff's Exhibit No. 6-B, LA-1, was marked and received in evidence.)

Mr. Bowles, III: You will note, Your Honor, that this is the report by the secretary of local lodge No. 170 to Mr. E. L. Harrigan and deputy president of the Brotherhood at Cleveland, Ohio, reporting the injury to a man, F. V.

Speck, at Ashland, Nebraska. You will also note that the secretary of the lodge sent a copy of this to Davis, Michel, Yaeger & McGinley, regional counsel. Now, as we will show later on, they were regional counsel, I believe, in Minneapolis. They were also the first regional counsel ever appointed by this Brotherhood, and the same firm, but with slightly different changes in the personnel, was the subject of the injunction suit in Nebraska in 1958.

I would like next to introduce form FLA-2, which consists of two pages, which purports to be the form sent by [fol. 54] the Legal Aid Department to the injured member for his further use in describing his accident and to be returned to the Legal Aid Department, and this was heretofore filed as part of Exhibit 3-C, in response to the first call, and I would like that marked Exhibit No. 7, Your Honor.

The Court: Does there appear to be two copies of this?

Mr. Bowles, III: No, sir, I believe that is the first and second page of it.

The Court: One is the report of the accident, and the other is the report of death?

Mr. Bowles, III: Excuse me, sir. I didn't realize they were on the back. I am sorry if I have confused you, sir.

The Court: Plaintiff's exhibit 7 is filed, having to do with a case of accident.

(Plaintiff's Exhibit No. 7, FLA-2 form, was marked and received in evidence.)

Mr. Bowles, III: Now, the purpose of this report which, incidentally, is just one page, consisting of the front and the back, is for use by the injured member in reporting more details about his accident to the Legal Aid Department, so that they may advise him as to what [fol. 55] are his rights under the Federal Employees Liability Act, and the Safety Appliance Act. I would like now to file form FLA-2-D.

Mr. Stallard: Well, Your Honor please, I would like to comment on that.

Mr. Bowles, III: Excuse me.

Mr. Stallard: That is a deduction of counsel, what they could inform him of his rights. It is the position of the

Brotherhood, and it has been shown by the president in his deposition, that all information on accidents was used in Washington, before the ICC as statistics to show, to improve the Safety Appliance Act, and other safety acts enacted by Congress, and it was not for the purpose of counsel, as deducted; it was for the purpose of advising him of his rights by the—the department, certainly. The department couldn't advise him of his rights. They couldn't practice law.

Mr. Bowles, III: Which we intend to prove later on, Your Honor, that at the time that this Legal Aid Department was established on May 1, 1930, that there did not exist this Statistical Department. It was not formed until a year later, therefore, it is hardly conceivable that this form could have been used in 1930 for statistical purposes. It was not used for that purpose until 1931.

The Court: Exhibit No. 7 states in the first two or three printed lines—

[fol. 56] Mr. Bowles, III: It is right in there.

The Court: "This information contained will be used by our legal counsel as a basis for his opinion as to your right under the law."

Mr. Stallard: That is correct.

The Court: That is No. 7.

Mr. Stallard: That is correct.

Mr. Bowles, Jr.: Now, if Your Honor please, may I further say at that point, that we expect to show to you at the time we consider the present president's deposition, Mr. Kennedy, taken June 1 of this year, Mr. Kennedy now contends that they now have the right even under the Illinois decision, to advise through their legal counsel or through the Legal Aid Department each of their members what are their legal rights, with respect to the FEELA and the prosecution of their injury or death claims.

The Court: That finishes your comment on No. 7?

Mr. Bowles, III: Yes, sir.

The next document I would like to introduce is form FLA-2-D, consisting of front and back of one page for use by the window or personal representative in reporting similar information as on Exhibit 7, to the Legal Aid

Department so that they may advise her or the personal representative of their rights under the FELA, and the [fol. 57] Safety Appliance Act, and that was previously filed as part of Exhibit 3-C, in response to the first call, and I would like that marked Exhibit 8, if I may.

The Court: 7, or 8?

Mr. Bowles, III: 8, Your Honor.

The Court: It is marked 8, identified and filed.

(Plaintiff's Exhibit No. 8, an FLA-2 form, was marked and received in evidence.)

Mr. Bowles, III: Incidentally, Your Honor, these forms introduced as Exhibits 6, 6-A, 6-B, 7, and Exhibit 8, are now in use today, and were given to us as the forms now in use today. I would like to now introduce a form of the Brotherhood of Railroad Trainmen for the purpose of reporting accidents involving slack action in trains of a large number of cars. I have heard this referred to as either a hundred, or seventy cars, I don't know which, but this is a special form for the secretary of the lodge to report to the Brotherhood, accidents to members arising under those circumstances. Now, this was heretofore filed also as part of Exhibit 3-C, in response to the first call, and I would like that marked as Exhibit 9, if you please, Your Honor.

The Court: Plaintiff's Exhibit 9.

[fol. 58] (Plaintiff's Exhibit No. 9, a slack action report form, was marked and received in evidence.)

Mr. Bowles, III: I would like next to introduce, Your Honor, special circular No. W-32, dated August 15, 1930, which was sent to all of the secretaries of the local lodges, designating the secretary as the person to make these reports of these accidents, and this was heretofore filed as part of Exhibit 1-A, in response to the second further call, and I would like it marked Exhibit 10.

The Court: Dated August 15, 1930, identified and filed as Plaintiff's Exhibit 10.

(Plaintiff's Exhibit No. 10, special circular W-32 form, dated August 15, 1930, was marked and received in evidence.)

The Court: Now, may we pause just a minute?

Mr. Bowles, III: Yes, sir, Your Honor.

The Court: Just to make some estimate roughly, this has taken us just an hour to get 10. I would estimate from that, if there are 200, it is going to take us 20 hours.

Mr. Bowles, III: No, sir.

Mr. Bowles, Jr.: It won't do that, because some of these, [fol. 59] if Your Honor please, when we get to them, are in batches of 10, 15, and 20, a series of correspondence that have been produced here between various people that are pertinent, which can be pointed out to you very promptly, and very easily, which will get you over 134, I think, in about ten minutes.

The Court: Just one further minute, please.

Mr. Bowles, Jr.: I might say that our plan is to be through with this this afternoon, halfway, at least.

The Court: All right, Mr. Bowles, III?

Mr. Bowles, III: If you will give me one moment, special circular W-32 is that form referred to in the ruling on Section 19 of the constitution which was filed as Exhibit 1. This was the form that was sent to the secretaries, stating that "previously no specific person was designated to make these reports, and we have had trouble getting these reports in. Now you, the secretary of the local lodge, are designated to make them."

Now, did I introduce that, Your Honor?

The Court: It came up before in the way of comment. I was going to say, special W-24.

Mr. Bowles, III: It should be offered as Exhibit 10. That was the same form, it is just a copy of it.

The Court: This is special circular No. W-32.

Mr. Bowles, III: I just got confused with my [fol. 60] own copies, and the Court's copies. I am sorry.

The Court: This is Exhibit No. 10.

Mr. Bowles, III: I would next like to introduce a blank card entitled "Regional Investigator's Commission," bearing the date of 1961; reportedly to be the type of card carried by all the regional investigators from the inception of the Legal Aid Department to the present; and this was heretofore furnished as Exhibit 7, in response to the second further call, and I would like this to be marked as Exhibit No. 11.

The Court: Marked Plaintiff's Exhibit 11, identified, and filed.

(Plaintiff's Exhibit No. 11, a carrying card, was marked and received in evidence.)

Mr. Bowles, III: That, sir, is the card carried by these regional investigators, and you will note that they are appointed directly by the president of the Brotherhood.

Mr. Bowles, Jr.: If I may add to it, Your Honor, that is the card also carried by the local secretaries of the lodges and the chairmen and other people who, under W-32, are authorized to make these investigations and report back to the counsel.

Mr. Stallard: Your Honor, the defendant expects to [fol. 61] show that none of those cards were ever carried by the secretaries in Virginia. Virginia never had those cards.

The Court: Well, the secretaries—what about the investigators?

Mr. Stallard: Well, investigators—we expect to show that there are no more investigators. They were all abolished about two years ago. We don't have investigators any more. They had them at one time.

The Court: Don't have them now?

Mr. Stallard: No, sir, they have four in the home office which are really the chief clerk, he is an investigator, and two girls and one other man in the office; four people in the central office in Cleveland, but at one time they had investigators, Your Honor, all over the country. They were assigned apparently to regions, regional investigators.

The Court: This is over-dated 1961, had you noticed that?

Mr. Stallard: No, sir, I had not noticed that at all, but I understand from the president, the evidence will show that he supposedly appointed, and he testified that he appointed sometimes secretaries in other parts of the country, to investigate a case. They sent in a perfunctory notice of the injury and the date and so on, but if he [fol. 62] wanted some pictures taken, a real investigation,

he would designate a local secretary, and he would have one of these cards. We expect the evidence to show that none of these cards have ever been used in Virginia by any secretary. He has never been designated.

The Court: But if the occasion arose, you plan to use that card in Virginia?

Mr. Stallard: Yes, sir, if that would happen.

The Court: You see, this case already has developed two possible phases. One, to enjoin what is actually going on now in Virginia, and for a fact, the other is to enjoin actions that the evidence discloses are reasonably anticipated.

Mr. Bowles, Jr.: That is correct, sir. Now, on the point of that comment, sir, I wish to ask the Court to bear in mind that at the appropriate stage, when we get President Kennedy's deposition, which was taken in June of this year, in Cleveland, Ohio, that we will show by that deposition that what Mr. Stallard has just said is exactly contrary to what the fact is now. On the other hand, the new change, as you will see from his testimony, is that when they abolished these so-called regional secretaries, or, rather, reduced them from a great number down to a few, they transferred by presidential order all of the functions [fol. 63] of the old regional investigators on to the secretary of the local lodge, who now carries out those same functions and carries that card. Now that is the testimony already given, so we contend that so far as the carrying out of this plan is concerned and so far as the furtherance of the original system, that it has just changed its color from black to slightly dark, very dark grey, and the method of operating is that the old regional investigator who was the bird dog that hopped right quick on these accidents, is now the secretary of the local lodge, who carries that card, to identify himself and it is the duty of that secretary to hop on it quick and report it and channel it to the regional counsel. Now that is Mr. Kennedy's testimony, and I didn't want you not to have it in mind. That is what we expect to show in regard to that card, and that every one of those secretaries do carry that card, issued by him.

The Court: If you have further comment, Mr. Stallard?

Mr. Stallard: Nothing, other than I expect to show by the secretary of Virginia that they have never seen a card like that, and they don't know anything about it. I have interviewed them, and they will get on the stand. They never saw them. Now, what has taken place other places, that evidence has already been taken, and that will [fol. 64] stand up for itself.

Mr. Bowles, III: Your Honor, I would next like to introduce the president's Annual Report, 1930, that is President A. F. Whitney, which consists of pages AAA-262 through AAA-267, being a report on the early workings and establishment of the Legal Aid Department, and was heretofore filed as part of Exhibit 2. This I would like to have marked as Exhibit No. 12, if Your Honor please.

The Court: Exhibit No. 12, identified and filed.

(Plaintiff's Exhibit No. 12, a report form, was marked and filed in evidence.)

Mr. Bowles, III: Before commenting on that, Your Honor, when that was originally produced, they left off one page. If you will recall, we had to ask them for the last page, and I would like to introduce page AAA-267, and -268.

The Court: 267 is here.

Mr. Bowles, III: Well, that is back and front, Your Honor. I really just want to introduce -268, but included with it is -267.

The Court: I see.

Mr. Bowles, III: That was produced as Exhibit [fol. 65] 3-E, in response to the second call, and I would like that marked Exhibit 12-A. I think that would show that the two go together.

(Plaintiff's Exhibit No. 12-A, report form, page AAA-268, was marked and received in evidence.)

The Court: Plaintiff's Exhibit No. 12-A identified and filed.

Mr. Bowles, III: With these two exhibits, it is reviewed how this department was set up, through the referendum questionnaire which has previously been introduced, and

briefly reviews its workings at that time, and sets forth the plan in a little more detail than we had it before, in that we go into now that a certain percentage of the regional counsel fee will be returned to the Brotherhood to pay for the operation of the Legal Aid Department. Other than that, the history related in that has been discussed before.

In another report, which I will file later, it refers to another portion of the president's report which is a report on the workings of the Legal Aid Bureau, made in 1930, consisting of pages AAA-553 through AAA-591, which is a detailed report by Mr. McGrath, the general counsel, who was in charge of the Legal Aid Department, to President Whitney, going through every case that had been handled [fol. 66] by the Brotherhood, and the result, and the outcome of it, and I would like to file that as Exhibit 13. They are far too numerous, Your Honor, to comment on at this time. That had heretofore been filed as Exhibit 3-F, in response to the second call.

The Court: Second further call?

Mr. Bowles, III: Second further call.

The Court: Plaintiff's Exhibit 13 is now identified and filed.

(Plaintiff's Exhibit No. 13, a report, was marked and received in evidence.)

Mr. Bowles, III: I would like now, to file what is offered in evidence, excerpts from the Board of Trustees and Annual Report of 1930. It was a brief history of the establishment of the Legal Aid Department, and this was heretofore filed as part of Exhibit 2 in response to the first call for production of documents, and I would like that that be marked as Exhibit 14, Your Honor.

The Court: Plaintiff's Exhibit No. 14 now identified and filed.

(Plaintiff's Exhibit No. 14, 1930 Annual Report, was marked and received in evidence.)

[fol. 67] Mr. Bowles, III: That, again, is representative and cumulative of the same history, the establishment of this bureau.

I would like to offer the next proceedings of the Sixth Triannual Convention, pages 572 through 575, purporting to be the ratification by Triannual Convention of the Brotherhood of the agents of President Whitney and the then secretary, in taking money from the general fund of the Brotherhood to get the Legal Aid Department initially established, before the 5 percent started coming in from the lawyers. This was previously filed as Exhibit 2 in response to the first call, and I would like that marked Exhibit 15, if Your Honor please.

The Court: Plaintiff's Exhibit No. 15 identified and now filed.

(Plaintiff's Exhibit No. 15, a report form, was marked and received in evidence.)

Mr. Bowles, III: I would like next to offer in evidence, Your Honor, part of the president's Annual Report of 1931, consisting of pages A-269 through A-298, relating to the, if Your Honor please, furnishings, of the Legal Aid Department in that year; in other words, between '30 and '31, heretofore filed by the defendant as part of Exhibit 2 [Vol. 68] in response to the first call for production of documents. I would like that marked Plaintiff's Exhibit 16, if I may, Your Honor.

(Plaintiff's Exhibit No. 16, Annual Report form, was marked and received in evidence.)

The Court: Plaintiff's Exhibit 16 identified and filed.

Mr. Bowles, III: I would like next, Your Honor, to offer as Exhibit 17, the first case involving the scrutiny of this Legal Aid Department and the plans set up by a court. I would like to offer the case of *In re: Petition of Rule 28* consisting of six separate documents, the final order of the Cuyahoga Common Pleas Court, dated June 17, 1933, the opinion of May 8, 1933; the opinion in the *Nisi Prius* series report which is, incidentally, New Series 291, March 23, 1932, and then the Respondent's Bill of Exceptions, in Volume 1, Volume 2, and Volume 3, exhibits only.

Mr. Stallard: Your Honor, I object to that; that has not been identified by anybody in this case other than counsel, who has made reference to it. I object to it on the ground

it does not in any way bind the defendant here in this case, nor is it material or pertinent to the issue in this case. No witness identified it, counsel just made the representation. [fol. 69] I have not examined it at all. I would like to see it, however, and see what it is.

Mr. Bowles, Jr.: You want me to reply in answer?

The Court: He says he wants to examine it.

Mr. Bowles, Jr.: Oh.

Mr. Stallard: I want to object to it, the introduction of these exhibits which I understand you have offered as Plaintiff's Exhibit 18.

Mr. Bowles, III: 17.

Mr. Stallard: 17, as being immaterial and irrelevant to the issues in this case, and have no connection whatsoever with my client, and they are not the best evidence, because they are photostat copies of something that took place in Cleveland, Ohio.

Mr. Bowles, III: It contains also the testimony of Mr. T. J. McGrath, who was general counsel and ran this Legal Aid Bureau. It contains the testimony of Mr. E. L. Harigan, who took over after Mr. McGrath, and ran it up until 1954, 1947, excuse me, and it contains a myriad of cases involving solicitation, fee-splitting, and just exactly the questions that we are talking about now. We intend to show that in spite of this decision, and the decisions following it, that as his Answer admits, the same thing kept on.

Mr. Stallard: Your Honor, I want the record to [fol. 70] show that I object to the introduction of this exhibit on the ground that my client, the defendant, the Brotherhood of Railroad Trainmen, was not a party defendant in that case, and counsel informs us in open court that the president of the Railroad Brothers did testify, but the introduction of certain evidence might have been objected to on the sound ground in Virginia, but some lawyer in Ohio might not have objected to it. Therefore, I object to it as being not the best evidence, not subject to cross-examination. I could not cross-examine that document.

Mr. Bowles, III: Nor could we cross-examine; Mr. Whitney is deceased.

Mr. Bowles, Jr.: Now, Your Honor, there are some other things that should be said to you about that. Mr. Kennedy, as I already said to you, is the president of this Brotherhood. Mr. Kennedy's deposition was taken by us on June 1, 1961, in Cleveland. We have already shown to you under the constitution and the Rules and Regulations, that Mr. Kennedy is the sole person and authority, and what-not, to run this Legal Aid Department. Now, Mr. Kennedy was questioned about this document that is now before you, all of it, and what every one of these details of it on this ground: That as president of this department, running it, what investigation had he made as to the best [fol. 71] history and past record of this plan, as it had been operated. He said he was thoroughly familiar with that document. He knew all about it. He knew what the decision of the Court was. We asked him further now, "Did you know the lawyers that were involved in here and that were enjoined and on your theory that you have investigated before you appoint them, have you investigated their reputation for character, whether they had ever been enjoined, whether they had ever done these things before, on integrity, and so forth, and so on, that you say is your standard for appointing regional counsel, and if you know about this case and their connection with this case?"

He said, "Yes, I did."

"Now you know all about this, Mr. Kennedy." Now, reappoint them when you became president?"

And he said, "Yes, I did."

"Now you know all about this, Mr. Kennedy." Now, the most interesting feature of this little situation right here now, however, is that Mr. Stallard, who was present in Cleveland, objected strenuously to me examining Mr. Kennedy, about his familiarity and knowledge with that exact record that you are looking at, and the basis of his objection was the record, itself, was the best evidence. That is why I brought it.

Mr. Stallard: Now, Your Honor, I would like to point [fol. 72] out that you might examine a witness on some matter, but I can't introduce an exhibit because the exhibit cannot be cross-examined, and it is not the best evi-

dence in the case, and I would like counsel to point out, Your Honor, where President Kennedy from his testimony, identified this and said he knew all about it.

Mr. Bowles, Jr.: May we digress and do that, sir?

The Court: May we be off the record a minute?

(Discussion off the record.)

Mr. Bowles, Jr.: I think that the record should show that he does not want to object to it, on the basis of authentication.

The Court: But he just said he did on that.

Mr. Bowles, Jr.: That is why I wanted the record to show now that he doesn't.

Mr. Stallard: I don't object to the record being properly authenticated, but I could not cross-examine that record, and that record wasn't against my client at all, and it would be unfair to introduce it against my client, some record in another case, where they were not a party to at all, because it is not the best evidence.

The Court: Excuse me a minute. I want to get clear [fol. 73] what has happened up to this point. The exhibit now offered consists of two newspapers, and three multi-volumes, the first two of which we now learn are really transcripts of what took place, the evidence before the Court, and the third are exhibits that were filed in the case. Now we have a copy of the record here, filed under the statute. Let me understand first, do you object to the introduction of this proposed exhibit on the ground that it is not properly authenticated?

Mr. Stallard: No, sir. It may be authenticated, but it is not material and relevant to the issue in this case. It might have come down perfectly regular, as being the authenticated copy from the Court, but still that would not make it material and relevant to the issues in this case, because that proceeding was not against the Brotherhood, and the Brotherhood will not be bound by anything in that case.

The Court: The Brotherhood officers, I understand, testified in this case.

Mr. Bowles, Jr.: All of whom are now dead, Your Honor.

The Court: But they testified.

Mr. Bowles, III: They testified, all of the principal officers who had anything to do with the Legal Aid Department testified.

[fol. 74] Mr. Stallard: Your Honor, but I would not have the opportunity to cross-examine them. They may have made—

The Court: You wouldn't cross-examine them anyhow. They would be examined by these gentlemen as adverse witnesses. Let me ask this: This is one of the things that is readily accessible to counsel for the defendant as to you, did you give him a reference to it?

Mr. Bowles, Jr.: I did, sir.

The Court: Pursuant to the order?

Mr. Bowles, Jr.: That's right, sir.

The Court: And he had an opportunity to examine it, if he wished, in advance?

Mr. Bowles, Jr.: That's right, sir.

Mr. Bowles, III: That is correct.

The Court: This proceeding by the Bar Association is a firm with lawyers who were acting as regional counsel?

Mr. Bowles, III: They were the second regional counsel appointed, and one member of the firm, Mr. R. B. Newcomb, and in the company of Mr. T. J. McGrath, devised this plan.

The Court: Just one minute. Now, I—do you want to elaborate your objections further?

[fol. 75] Mr. Stallard: No, sir, I just wanted to say that this is not material and it is not the best evidence, because it is an exhibit and opinion.

The Court: Not the best evidence of what?

Mr. Stallard: In this case.

The Court: The best evidence of what?

Mr. Stallard: Best evidence would be those people coming in and getting on the stand and testifying.

The Court: Well, they are dead.

Mr. Stallard: I know they are dead, therefore, I don't have a right as counsel for the defendant, to cross-examine them.

The Court: Well, if they were living, they are the principal officers.

Mr. Stallard: They were.

The Court: Of the Brotherhood.

Mr. Stallard: They were, many years ago, the principal officers, but not today.

Mr. Bowles, Jr.: Up until 1949, as far as President Whitney is concerned.

The Court: I find, in glancing through the order of Virginia 7, 1933, I find that that Court, for what it may be worth, find that the Legal Aid Department is a branch of the Brotherhood of Railroad Trainmen, and that the re-[fol. 76] spondent for Newcomb, Newcomb & Nord is one of the regional counsel for an inevitable part of the Legal Aid Department under a plan which is nationwide in its scope. The objection to the admission of this is overruled, and your exception may be noted.

Mr. Stallard: All right. The record will show my exception.

Mr. Bowles, Jr.: Your Honor, I merely put into the record at this time, quoting from page 119 of the deposition of Mr. Kennedy, as president, which was taken in Cleveland, on June 1, 1961, the following statement by Mr. Stallard, in connection with my examination of Mr. Kennedy of this specific record, which Mr. Kennedy said he was thoroughly familiar with, and this was Mr. Stallard's objection:

"Counsel for the defendant objects to questioning the witness on these cases, of course. It is a question of law, what happened in those cases, and the cases can be introduced, and that would be the best evidence."

That is why I brought them.

Mr. Stallard: I would like to read Mr. Bowles' statement where he says, "I am only asking whether or not this witness has any familiarity with them as head of this department in the light of the investigation into regional [fol. 77] counsel and the past history of the department." I want the record to further show that President Kennedy was examined on page 30 of his deposition:

"You know of course then of a case in 1933, in 15 Ohio Law Abstract, 160, the title of In Re: *Petition on the Committee of the Rule 28 of the Cleveland Bar Association*

against *Newcomb, Newcomb & Nord*, that laid down the same principle, did it not, as the Supreme Court of Illinois?"

The answer was, "I am not so familiar with what they did, I wouldn't say that it came in the same classification with the Supreme Court of Illinois."

Mr. Bowles, Jr.: I don't know whether you want to hear it, sir, but on page 117, he discloses complete familiarity with that particular record so identified.

The Court: This is exhibit, Plaintiff's Exhibit No. 17 is identified and now filed; exception to the admission of it, and the filing of it, by counsel for the defendant is noted on the record.

(Plaintiff's Exhibit No. 17, case of *In Re: Petition*, was marked and received in evidence.)

Mr. Bowles, III: Your Honor, I fully realize that it is a very lengthy and bulky document.

The Court: Well, you didn't make it up. I don't see [fol. 78] any occasion for you to apologize.

Mr. Bowles, III: All of it, I submit, is very pertinent to this, and I would like, for the benefit of the Court, to just briefly summarize certain parts of it.

The Court: Would it be better, perhaps, to save this for argument?

Mr. Bowles, Jr.: I think so. There are certain places there that can be, between now and adjournment, pointed out to you, that show you just why you need not read it all. It is nearly 2,000 pages, I think.

Mr. Bowles, III: Including all of the exhibits.

The Court: If you are going to accomplish that result, don't try to finish by one o'clock, just take your time.

Mr. Bowles, III: I can get started, though.

The Court: Yes, you go right ahead.

Mr. Bowles, III: This record shows that the idea of this Legal Aid Department had its inception, primarily in the mind of a man named H. R. Fuller, whose testimony appears in there at Volume 1, page 359 through 376. This man, Fuller, was the legislative representative of the four big Brotherhoods in Washington. He is the man who was

responsible for lobbying railroad bills in Washington, and he was instrumental in the early 1900's in securing the passage [fol. 79] of FELA, the amendments to the Safety Appliance Act, and the various other acts having to do with the railroad personnel. In 1906, as this record shows, he presented a plan, almost identical to the one later adopted by the Brotherhood, to this group of the four Railroad Brotherhoods, and it was objected to right off, and killed on his presentation by the president of the Automotive Railroad Conductors, who said, and as Mr. Fuller quotes him, "We want no part of that."

The Court: These four were all four railroad Brotherhoods?

Mr. Bowles, III: That is the Brotherhood of Locomotive Trainmen, the Brotherhood of Railroad Trainmen, the Brotherhood of Signalmen, and the Brotherhood of Automotive Conductors.

The Court: There are four Brotherhoods?

Mr. Bowles, III: After that, he teamed up, this Mr. Fuller did, with a man named W. A. Percy, who was the attorney for the Brotherhood of Locomotive Trainmen, and the Automotive Conductors, and this same plan was presented to the Brotherhood of Railroad Trainmen in 1916, 1919, and 1922, and each time it was rejected; and in that record, you will find much of the correspondence between Percy and Fuller as well as several speeches made by each of them in the early 1900's, as to why you should have such [fol. 80] an organization as the Legal Aid Department.

In 1928, Alexander F. Whitney became president of the Brotherhood of Railroad Trainmen, and Mr. T. J. McGrath became its legal counsel. Now, these two were apparently latched onto the idea, notwithstanding that the Brotherhood had rejected it on three or four separate occasions before, and presented it to the various governing bodies of the Brotherhood, and generally to the membership at large, by the referendum which we previously introduced, and on May 1, 1930, the Legal Aid Department of the Brotherhood was set up with T. J. McGrath running it.

Some fifteen or sixteen regional counsels, this record will show, through McGrath's testimony which is quite lengthy, were selected in various strategic rail centers throughout the country, and contracts were signed with these regional counsels, whereby they agreed to take all of the Brotherhood of Railroad Trainmen cases on a 20-percent-fee basis with a 5-percent, sometimes 6-percent kickback to the Legal Aid Department, and the plan was put into effect as of May 1, 1930.

The plan, as Mr. McGrath and Mr. Whitney both described in there, worked more or less like this: When a member of the union or the Brotherhood was injured, someone in his lodge would immediately report the accident to [fol. 81] the Legal Aid Department; the Legal Aid Department would, in turn, send a regional investigator to see the man, and as this record shows, in Ohio, alone—the small state of Ohio—there were two full-time regional investigators. The regional investigator would interview the man, obtain the facts of the occurrence, and advise him as to his rights, including legal rights, and warn the man against the sharp practices of the railroad claims men and tell him that there was a Legal Aid Department at his disposal, which would advise him as to his rights in detail, and that if he couldn't get the railroad to make him a proper, voluntary settlement, based on advice from the Legal Aid Department, then his union, the Brotherhood of Railroad Trainmen, would supply him with a lawyer and the regional counsel who would only charge 20 percent, much less than everybody else in the personal injury business was charging.

Now, Mr. McGrath, in Volume 2, page 115, being asked by Mr. Morris, who was the lawyer representing the Cleveland Bar Association, Mr. Morris asked this question:

"But if the men finally get to the point of adopting your plan in your union, it will mean that in this region, Newcomb, Newcomb & Nord will have a monopoly of those cases?"

"A. Yes, sir."

[fol. 82] And Mr. Morris says, "That's right, isn't it?" And the witness, who is Mr. McGrath, says,

"If they cooperate with us in our plan to carry out our suggestion, cases will not go to any other lawyers or member of our Brotherhood unless we should broaden our list," or increase the number of regional counsel.

The Court: Finish here on that point.

Mr. Bowles, III: Well, it is convenient for me to stop at any time.

The Court: I think we had better recess at this time until 2:15.

(Whereupon, a recess was taken for lunch until 2:15 p.m.)

[fol. 83]

AFTERNOON SESSION

(Met pursuant to adjournment at 2:15 p.m.)

Mr. Bowles, III: I believe I left off, Your Honor, where I quote to you the statement by Mr. McGrath, "And if this plan worked as he hoped it would work, that it would be a virtual monopoly for these regional counsel for all the business that the Brotherhood of Railroad Trainmen might have in the way of personal injury."

Now, this particular case, as Mr. Stallard stated, was brought against Newcomb, Newcomb & Nord, the law firm, which was the second regional counsel ever appointed in this setup. It was for violation of Rule 28, which, in Ohio, is an all-inclusive section of their ethics. Even though the Brotherhood wasn't a party, nevertheless, the lower court—and it was affirmed on appeal—openly condemned the plan of the Legal Aid Department as involved in the practice of law by a corporation, the act of solicitation by a corporation for a specific lawyer, and, of course, in the decree handed down, Newcomb, Newcomb & Nord were enjoined from acting as regional counsel in Ohio, on the basis that doing so amounted to unethical conduct, and with special emphasis on the fee-splitting aspect of this arrangement.

Now, going on to this, in just a little bit more detail, [fol. 84] the people that testified in this Exhibit 17 were primarily Mr. Alexander F. Whitney, the then president; Mr. McGrath, the man who was general counsel and organ-

ized and set this up; Mr. Harrigan, the man who took over from him, and innumerable other people that were involved in the various different cases of the individual member.

Now, Mr. McGrath, in his testimony, or Mr. Whitney, in his testimony—excuse me—at page 43 and 46, Volume 1, stated that these regional counsel were picked out by Mr. McGrath, but that Whitney approved them, and the first one that he ever appointed was a firm of Davis, Michel, Yaeger & McGinley in Minneapolis, and this is the same firm in different form that was involved in a proceeding in Nebraska similar to this in 1958; just the personnel had changed around a little bit.

The second firm that was appointed was Newcomb, Newcomb & Nord, which was the firm involved in this proceeding in Exhibit 17, and Mr. Whitney also testified at page 48 that the members were told about the Legal Aid Department and the setup was explained to them through the journal and that each officer of the local lodge had been instructed to explain this setup to the members so that they would know exactly what they could look to expect from the Brotherhood. He testified, at page 59, this is still in Volume I, that the Newcomb firm carried out all of the [fol. 85] instructions that were contained in these Rules and Regulations which we have previously introduced, I believe, as Exhibit 5.

At page 68 he testified that the viewpoint of lawyers was never asked about this plan in setting it up, that the only lawyer involved was Mr. McGrath. He also testified that all of the lawyers that he had hired as regional counsel had been engaged in what he termed as the personal injury business, and that he had heard, on page 73, that in a good number of cases the appointed regional counsel had been engaged in active solicitation. He also testified that he approved of the individual appointment of each of the regional investigators.

The Court: This is Mr. Whitney still?

Mr. Bowles, III: This is Mr. Whitney still.

And that at page 80, he kept in touch with this operation as it went along, and then, strangely enough, at page 81, he makes this statement: "We don't make any claim that there have not been indiscreet things done."

He admits that a few things, perhaps, have gone awry from the original plan; and then at page 83, he expresses his opinion that it was perfectly proper for his regional investigators appointed by him to comment on the ability of other lawyers, provided, he said, "that they have said something unpleasant about our Legal Aid Department." [fol. 86] At page 85, he makes this rather strange statement, "—that it was hoped that the Brotherhood Legal Aid Department would investigate the cases and bring about a settlement, without the necessity of the injured man coming in contact with regional counsel." He was primarily interested in this Legal Aid Department attempting to work out the settlement for the man, and if that could not be done, and if suit was necessary to be instituted, that is when the regional counsel came in, and he said, "Yes, we do that in many instances."

He also stated at page 86,—this is still President Whitney—"Before the Legal Aid Department would render an opinion as to whether the man's case involved liability on the railroad or not, that in many cases they had him in and examined by a doctor so they could advise him as to what settlement he should make."

Now, turning to Mr. McGrath's testimony, which is scattered through this record in five places, he states that at page 10 in Volume 2, that this Legal Aid Department was organized by him with the assistance of R. B. Newcomb. Now, R. B. Newcomb is one of the members of the firm that is being attacked in this Exhibit 17, and at page 11 he states that the membership dues paid by every member of the Brotherhood of Railroad Trainmen entitled him automatically to the services of the Legal Aid Department.

Now, page 18, 19, and 20, McGrath stated that the Statistical Department, and this is the department that prepares the forms and compiles the information for making reports to the ICC, as to the number of men injured in railroad service, was not established until about a year ago, or 1931, whereas, if you will recall, the Legal Aid Department was established on May 10 of 1930—May 1, 1930.

Now, that is particularly important, Your Honor, in view of the statement of Mr. Stallard, which he previously made, that the purpose of these forms, that is, the LA-2 form, the FLA-2, FLA-2-D, were for statistical purposes; and when these forms were initially first used, there was no such thing as this Statistical Department.

Now, further, at page 23, Mr. McGrath says that Legal Aid only communicates with the man if the injury is major or serious. They are not worried about these trivial or inconsequential accidents, and at page 28 through 29, he reviews how a typical case would occur. He admits at page 31 and 32 that the investigators were sometimes sent when there has not been any request on the part of the injured man. Now we will introduce a little later on, Your Honor, as Exhibit 18, a case of Dworken against the Brotherhood of Railroad Trainmen, and I would just like to mention [fol. 88] briefly, right here, because at the same time that this Exhibit 17 case, the Petition on Rule 28, was pending in the same court, there was pending the Dworken case against the Brotherhood of Railroad Trainmen, and Mr. McGrath stated that during the pendency of the Dworken suit, that they no longer gave out legal advice in Ohio, but they were doing it in all forty-seven remaining states at that time. He testified at page 37 that the Legal Aid Department on occasions had taken down to the regional counsel; he stated that it was the option, on page 38, of the member to choose any regional counsel, not including in that statement, any lawyer, but any of the regional counsel. He didn't have to confine himself to the regional counsel in his particular neighborhood. Now, on page 40, he states that because of the pendency of this Dworken case in the same court that all questions of liability had been referred to the firm of Newcomb, Newcomb & Nord, and they write to the injured man and advise him notwithstanding the fact that that firm at that time is not the man's counsel, but, strangely enough, he says even in Ohio, if a case comes in, "and I look at it, and there is obviously no liability, I will go ahead and tell the man that he hasn't got a case." So he only in Ohio, during the pendency of this suit, refrains from advising people that they have a case. He still

tells them that they don't have a case. Now, in regard to [fol. 89] this difference that has been mentioned, between 5 and 6 percent of the kickback to the Brotherhood, I think the statement by Mr. McGrath at page 42 of Volume 2 in Exhibit 17 is very important. The question was asked him:

"And then what does the regional counsel do with the 20 percent?"

"A. The regional counsel sends us 5 percent, that is, 5 percent of the net amount recovered, except, I think, in one or two cases, when they sent us 6 percent.

"Q. In other words, there are certain classes of cases you get 6 percent and not 5?"

"A. No, there are certain sections of the country where our contract is just a little more advantageous from our standpoint."

Now, later on at page 48, still in Volume 2 of Exhibit 17, he states that if Rule 28 forbids the fee-splitting, that they will find another way to get that money out. On page 49 at the top, he says, as one of the alternative plans to get this money in, that "If we can't get it by the method we have been previously using, we might think of using an assessment on the members."

At page 54, he admits that the first two full-time regional investigators that were put on the Brotherhood payroll had [fol. 90] been ambulance chasers for the present regional counsel.

The Court: You said "investigators." Was that a slip of the tongue?

Mr. Bowles, III: No, regional investigators.

The Court: Regional investigator is not a lawyer, as a rule, is he?

Mr. Bowles, III: No, sir, regional investigator is the man appointed by the Brotherhood and assigned to a separate legal counsel. He admitted that the first two full-time regional investigators were paid by the Brotherhood and had been ambulance chasers for the present regional counsel, Newcomb, Newcomb & Nord; and, needless to say, they still continued to work under that firm. He also stated at page 57, that the bookkeeping of the Brotherhood and the

Legal Aid Department had always been kept strictly separate, that is something I think you will find continued right up today, at least as far as 1959, and as far as we have been able to obtain any of it. It was then put into evidence in our Exhibit 17 as Exhibit 4, a long list of the cases handled by Newcomb, Newcomb & Nord in this period, from the first of May, 1930 up until the middle of 1931.

There are quite a lengthy number of cases handled, and it was also put in at a later date, another list of cases where [fol. 91] Newcomb, Newcomb & Nord advised members, but were not actively employed as counsel. He again takes up a discussion of how this department works, and what the regional investigator does. He goes to see the claimant; that he takes a statement. He explains how the Legal Aid Department works, and attempts to enter into contract negotiations for regional counsel.

At page 86, he states that they have refused right straight along, to turn any of the statements obtained by the regional investigators or any of these forms that we have heretofore introduced over to any lawyer other than the regional counsel.

It is interesting to note in the deposition that we took of the now president, Mr. Kennedy, that he makes the statement that it would be rather difficult for a man, meaning an attorney, whose background is antagonistic to labor, to obtain these reports, and he admits that today even if he was representing a member of his Brotherhood.

Now pages 333 through 405 and 486, 513, involve the discussion of the various cases handled by the Legal Aid Department with Newcomb, Newcomb & Nord acting as counsel, and, strangely enough, this does not confine itself to Ohio, but there are cases involving North Carolina claimants, South Carolina claimants, West Virginia claimants, [fol. 92] and even several New York claimants, and there is one case in particular that is discussed between pages 215 and 230 of Volume 1 which might be referred to as the Rattigan case where Mr. McGrath admitted that this member, Rattigan, who had already employed and had a contract with another lawyer named Oldmixon from New York, but he admitted that he wrote Rattigan and the letter is in

evidence here, trying to get him to get rid of Oldmixon, and hire Newcomb, Newcomb & Nord; that he send him slanderous material about this fellow, Oldmixon; that he sent him untrue material about this fellow, Oldmixon, and, of course, the final result was that Rattigan broke his contract with Oldmixon, and Newcomb, Newcomb & Nord became his counsel, and he made this strange statement, "If I had it to go over with again, I would do it now, right now, today." He admits that they don't hesitate to boost Newcomb, Newcomb & Nord, and the other regional counsel; that his instructions to his men are to push these fellows and advertise them.

Now, strangely enough, he had previously testified, because of the pendency of the Dworken case, that as of April 1, 1930, '31, excuse me, they had stopped receiving any fee-splitting in Ohio; yet the journal entries of the books of the Legal Aid Department show that they were receiving them up until June 23 of that year. He admits that this Dworken case, which I will introduce in a moment, [fol. 93] the purpose of it was to determine whether the Legal Aid Department was practicing law or not, and admits that whatever the determination made there, that they will abide by; but that in his own personal opinion, he doesn't believe that this scheme amounts to practicing law, and although Mr. McGrath is a lawyer, who is a member of the Bar of Ohio and of the Bar of Nebraska, I believe.

Now, he, in Volume 1 at page 24, at page 124, McGrath says that in the selection of these regional counsel to represent the members throughout the country, it didn't make any difference to him whether they had been ambulance chasers or not; that he was just after a man who was a good personal injury lawyer.

At page 166—now this is in Volume 1 of Exhibit 17—he stated that as of December 1, 1931, a Mr. Harry Harrigan; who was working under him, who is a non-lawyer, whom I will take up in a minute, took over. McGrath, later on, admits that he never made any study of the ethics of the State of Ohio, of the American Bar Association, the canons of it, in attempting to set up his idea of how this bureau should operate. He admitted at page 182 that he

was more interested in the welfare of the members of the Brotherhood than he was in any rules set up for relations of lawyers and law firms. He admits that the Brotherhood [fol. 94] took part in this successful defeating of all of the anti-solicitation statutes in Ohio up to that date. And then, at page 209, he states that the regional counsel works not only for the member it is representing as a personal injury lawyer, but are also representing the Brotherhood of Railroad Trainmen in any litigation that they might have involving labor problems, exactly the same thing that Mr. Stallard has told you that supposedly now the Legal Department does.

There is one thing I would like to read you out of this, Your Honor, which appears in Volume 1 of Exhibit 17, and McGrath here is talking about how he selects his regional counsel, on what basis. It is on page 124. He says, "We have men wherever we have been able to secure them who are experienced in the trial of damage suit cases. Now you can differentiate between ambulance chasers. I don't think a great deal of odium attaches to ambulance chasing where the fellow handles his client with decency, and treats other lawyers on a fair plane when he solicits business. I consider it is unethical, but I mean from a purely moral standpoint. We sought to select men who may have used certain means to induce clients to come in there, but who would stand the scrutiny of any fair-minded man as to whether their practices were reasonably decent."

Now, one other thing on this exhibit, Your Honor, which [fol. 95] is pointed out at page 100 through 102 of Volume 1, in the testimony of Mr. Harrigan, and I will remind you, Mr. Harrigan is the man who took over running this department after McGrath ceased to run it in 1931, and ran it up until 1947, when a Mr. Maher took over, and there were several other people, and then Mr. Maher is the one again today.

At those pages, Mr. Harrigan admitted that he had been employed by Wisconsin law firm, and that he had been criticized in an opinion rendered in Wisconsin in which he was identified as the superintendent of the solicitation department of that firm, at \$10,000 per year. Of course, that is in 1929.

Now, the next case that I would like to discuss is that of Dworken against the Brotherhood of Railroad Trainmen.

Mr. Stallard: Well, Your Honor, I would like to comment on this exhibit:

Mr. Bowles, III: Oh, excuse me. Excuse me, I am sorry.

Mr. Stallard: Your Honor, this exhibit No. 17, I believe counsel makes reference that this information is gotten for statistical purposes. That is true. He said the Statistical Department wasn't in existence. I don't know what he means by the Statistical Department. Certainly, my client [fol. 96] testified on page 50, 51, 52, and 141 that they used this in their own Statistical Department. They also used it before the Interstate Commerce Commission, which certainly was in existence in 1931. They used it before Congress in getting laws, the Federal Employees Liability Act.

I can see, Your Honor, if you have a wreck on the Atlantic Coast Line, that it might affect a whole lot of citizens going to Florida from Richmond, and if nobody made an investigation, nobody presented anything to the Interstate Commerce Commission, because they didn't have a Statistical Department, then we might not have any new Safety Appliance Act, and we wouldn't go forward, and I respectfully submit, and I would like to read the testimony of President Kennedy on that very point, on page 50:

"A. The purpose of the investigation, of course, is to protect his rights."

And of course, they protect the rights of those men and they would be the rights of yourself and my rights to be protected in safety appliances.

"A. Many of these investigations of which we have an investigator are held by the Bureau of Safety. We get the facts, the same as they do.

Q. I am not talking about that. The purpose of this whole department of Legal Counsel is to protect the rights of the individual member that gets injured?

[fol. 97]- A. We find under our laws, our present safety laws, that the Interstate Commerce Commission employs an individual in different sections of the United States to investigate all serious railroad accidents. We attend those same hearings for the purpose of getting statistical evi-

dence to the same extent that the Interstate Commerce Commission does, and so it is important that we get the same advice from our local lodge officers as to a serious accident, a collision or otherwise, as the government does in Washington, so that when the hearing is held, generally within a few days, we can have our representative there."

Also, now if it is counsel's purpose to prohibit the Brotherhood from getting this information to use in strengthening the Safety Appliance Act or the Federal Employees Liability Act, I can't see that, because that is a constitutional right, and it is to protect the citizens of Virginia, whether it be railroad employees or not.

I don't know what department he had reference to. He said there is no Statistical Department. The Brotherhood has a Statistical Department for insurance purposes. They have an insurance company, and they want to keep up with that, because they have those policies on these men. So [fol. 98] I respectfully submit that that really does not have anything to do with the present case.

Mr. Bowles, Jr.: If Your Honor please, I just briefly want to state to the Court that the impression that apparently is created by Mr. Stallard is taken completely out of context, because President Kennedy is being examined at that time, and at the end of several pages and which has been discussed with him, the primary and the secondary purpose of getting these reports from the secretaries of the local lodges which are required under the constitution and the orders of this president to make those reports to the Legal Aid Department.

Now, for some five or six pages, it has been very difficult to drive the president into a consideration of the difference between the primary and secondary purposes of these reports, and Mr. Stallard picked up at the point where he began talking about the secondary purpose of the report, and may I read you this:

Answer: "I would say that we would have to make the investigation as promptly as possible.

Question: Well, now, the purpose of that, as we have said, would be to find out the facts so that the man's rights could be protected?

Answer: The purpose of the investigation, of course, is to protect his rights."

That is, the individual members who had been injured, [fol. 99] the widow of the one that had been killed, or his family, and that is the main and primary purpose of what has been read to you about what Mr. McGrath said—that this statistical business was a later thing which came in as a secondary purpose of this investigation originally started which had for its primary purpose the protection of the man's rights if it was an important and a big money case to get him into the hands of regional counsel to get a big verdict, and what they did, always, as we shall later show you, is that they went in and one deposition I have in mind, particularly, which will be read to you later, Mr. Lohman, I believe, in San Francisco, where they undertook to say that here is a man with a sprained back, if you stay on with the railroad, you may get \$1,000 or \$1,500, or if you get just an ordinary lawyer that is about all he can get you, but our way of getting money about these things is \$45,000 for a sprained back, if you will come on with us. We will get you \$45,000 and then proceeded to show him how many big verdicts he had gotten, and all of this and the other, and the man did not sign up with him, and settled his case with the railroad.

Incidentally, Your Honor, that happened almost a year following this magic date.

Mr. Stallard: Now, Your Honor, he is opposed to a motion—he has jumped up from what we have here, [fol. 100] Exhibit 17, going to depositions in call. If I may, I will reply to that right now.

The Court: Very well.

Mr. Stallard: Mr. Loman, who was injured on one of the railroads out here, and I have made a motion to exclude that evidence on the ground that the man with whom he talked was not an investigator of the Brotherhood, he had been fired and President Kennedy testified on June 1

that he had fired him a long time before, and when they took the evidence in July and August, he was not at all an investigator. The conclusion drawn by counsel would not be substantiated by the evidence, because he said the man said "He could get him \$45,000." The evidence shows that they did run him around; the man said, supposedly, or the investigator said, "He had a bad back, and I got \$45,000 in mind." But he didn't say he could get \$45,000 for this man. That is drawing upon the imagination of counsel, but that evidence is certainly not admissible in this case on the Rules of Evidence.

Mr. Bowles, III: The next exhibit I would like to introduce, Your Honor, is the case of *Jack B. Dworken against the Brotherhood of Railroad Trainmen, Grand Lodge*. This case is a case that was brought to final conclusion on May [fol. 101] 4, 1932. It was also handled in the State of Ohio, in Cuyahoga County Court, and this is the case that I have been previously referring to that was pending at the same time as the case that Exhibit 17 was pending, and it is very interesting how this case was resolved, Your Honor. The plaintiff agreed to a dismissal on the representation by counsel of the Brotherhood of Railroad Trainmen, that they had been doing these things, splitting fees, running cases, solicitation; and that now, in good faith, they had stopped, and that they were going to stay stopped. Of course, I would submit, Your Honor, that is exactly the same situation we have here in this case as raised by the Answer, and I would like to introduce this as Exhibit 18, if I may.

Mr. Stallard: Your Honor, I would like to examine it before he introduces it, to see if I have any objection. Now, Your Honor, my objection to this instrument is that this decree enjoins the Legal Aid Department from giving opinion with respect to their legal rights, individual members, the Legal Aid Department was practicing law, giving opinions. They came in court and said they were no longer giving opinions, but they were referred to counsel, either of the man's choice, or if a dependent or minor child in the railroad service requests a legal opinion, respecting the

rights of such persons or person, arising out of such injury or death, such request will be referred to counsel of the [fol. 102] choice of such member or dependent with no responsibility on the part of the defendant for the character of the service rendered by the attorney. In other words, they would refer it.

Mr. Bowles, III: And in the division of the fees?

Mr. Stallard: They went on to say there would be no division of the fees, if somebody wanted to, there would be no division of the fees, if they referred it to some lawyer, but the real point is they enjoined from giving legal opinions. Well, so far in this case, as I understand it, they don't say the Legal Aid Department is giving legal opinions; they are really soliciting business for lawyers who gave legal opinions; and therefore, I object to this.

To start with, this happened twenty-nine years ago, and the officers of the Brotherhood are no longer living, nor any of the parties participating in the case, and I don't know what representations they have made, and I do not feel I would be bound by something thirty years ago.

Mr. Bowles, III: I think the record speaks for itself. Your Honor, and it goes to the question of exactly what we have here in this case, of good faith.

Mr. Stallard: I would like to ask, does counsel take the position that they are now giving legal opinions, the department [fol. 103] ment giving legal opinions?

Mr. Bowles, Jr.: Your Honor, Mr. Kennedy, the president, in his deposition of June 1, I believe took the position that they had that right under the Illinois case.

Mr. Stallard: Your Honor, I don't believe they have that right, and I don't believe the Illinois case said they had that right.

Mr. Bowles, Jr.: That isn't the point, sir, Mr. Kennedy contended it was their position that they did have that right.

Mr. Stallard: I don't contend that. I don't believe they could, because that is practicing law.

Mr. Bowles, Jr.: That is the thought that ran through my mind at the time Mr. Kennedy made that statement.

Mr. Stallard: I read his deposition three times. I don't remember that phase of it. I could be mistaken, but I don't

remember he said that they had a right to give a legal opinion. If he did, he is absolutely wrong. I don't remember him saying that.

(Discussion off the record.)

The Court: Plaintiff's Exhibit 18 so identified is now filed.

[fol. 104] (Plaintiff's Exhibit No. 18 regarding the Dworzen case, was marked and received in evidence.)

Mr. Bowles, Jr.: On that point, Your Honor, we are expecting to show and to tie up this thing later on, as part of this plan, that one of the inducements to push the people into the regional counsel is that we will make this investigation and make available to regional counsel the statements of witnesses that we get, but if you don't hire regional counsel, maybe you won't get it; that is what has happened in several cases, as we shall show you later.

Mr. Bowles, III: As well as Your Honor, the fact that at this time the railroads, I gather, and I understand they still do have a rule, that when an accident happens involving any of their men, their members, that is, the employees of the railroad are not to give statements to anybody other than their own Claims Department, and are subject to dismissal for doing so, and it is quite obvious that the only person who can get the statements from these people are the regional investigators of the Brotherhood, because they work right with these people; they know them all; they are able to supply something which the average personal injury lawyer, because of not having that "in," can't supply, and that is another inducement.

[fol. 105] The Court: I understand you to say that the railroads have a disclosure rule.

Mr. Bowles, III: That is what they claim; that is what Mr. McGrath claims in his testimony.

The Court: You mean the Brotherhood claims?

Mr. Bowles, III: That's right.

The Court: I understood you to say the fact that they did have.

Mr. Bowles, III: No. I meant it has been brought out in Mr. McGrath's testimony. It would take me a while,

but I could find the exact place where he stated that that is the reason for not wanting to give these statements out, because the member would be subject to dismissal.

(Discussion off the record.)

(Recess.)

Mr. Bowles, III: For the sake of the record, Your Honor, I would just like to state that the Dworken case, Exhibit 18, was not an injunction. The suit was dismissed on a showing supposedly in good faith that a new plan had been adopted.

The Court: That is apparent from the exhibit.

Mr. Bowles, III: Yes, sir, and for the sake of the record, [fol. 106] the purpose of Exhibits 17 and 18 is to show that as of 1933, the two Courts had already pointed out to them what was wrong with their plan, but nevertheless, they have continued to the magic date.

I would like to introduce in evidence next the case of *Joseph Ryan against Pennsylvania Railway Company*, and I have here a photostat of the reported opinion which appears in 268 Illinois Appeals 364. I would like to offer that as Exhibit 19.

The Court: We now understand this is not evidence in this case; it is a reported authority, which we could look up as a precedent; isn't that right?

Mr. Bowles, Jr.: Quite right, sir.

The Court: For convenience, you are putting it in for convenience?

Mr. Bowles, III: Yes, sir.

Mr. Bowles, Jr.: Convenience, and also—

The Court: It is really not evidence.

Mr. Bowles, Jr.: —there are some factual things that are determined in them, and related to the Brotherhood, and by which we feel they are bound.

The Court: In other words, without this exhibit, you could cite the case, and I could get the book here and read it?

[fol. 107] Mr. Bowles, III: That is correct, sir, but you would find that you would have to go across the street to do it, I am afraid.

The Court: I can get books out and have them brought over here. This is just put in as a convenience?

Mr. Bowles, III: Yes, sir, I would like to briefly state that that was a case in which regional counsel, Mr. Ryan, was suing the railroad for his fee. The railroad had gone in and settled the case directly with his client, and he was suing for his fee, as well as the Brotherhood's 5 percent, and the Illinois Court decided that in spite of the fact that this involved solicitation, in spite of the fact that it involved fee-splitting, and so on, that the purpose of the Brotherhood in doing this was so wonderful that they would say this was perfectly all right, and "You are entitled to get your fee." It is a very strange opinion, and the main reason for putting it in, is the same Court now that rendered the Illinois opinion in 1958, that the defendant now so heavily relies upon—

The Court: Well, will you take this up more fully later on, in argument, or read certain pages into the record?

Mr. Bowles, III: I don't think it is necessary to read certain pages, Your Honor, I just wanted to briefly acquaint you.

The Court: I didn't catch the point from that statement, and I do want to catch the point.

Mr. Bowles, III: The point is that the same Court that rendered the opinion in '58 is this same Court in the Ryan case, and that for some odd reason in 1932, or whatever the date that case is, they felt that what the regional counsel was doing was perfectly all right. In '58, they have completely changed, and reversed themselves. This was the case that was heavily relied upon by the Brotherhood to state all throughout the country that what they were doing was perfectly all right. It is in direct opposition to Exhibits 17 and 18.

The Court: You speak of it now, as an overruled case?

Mr. Bowles, III: Yes, sir. Well, it is a case that proved quite embarrassing to the Illinois Supreme Court in 1958.

Mr. Bowles, Jr.: When we get to it, the Illinois case, we want to show you also at that time the background surrounding it, how the Illinois case arose, because Mr. Kennedy, in his deposition, has undertaken to say that he was the one that started the Illinois case, in order to find

out exactly what the Brotherhood could do. We submit that [fol. 109] the situation in the background is not that at all, but that Mr. Kennedy's organization was about to be gotten into real trouble, and he rushed in to stymie that trouble, and brought out the declaratory judgment suit, instead, and that is the same jurisdiction.

The Court: This Exhibit 19 is identified and filed.

(Plaintiff's Exhibit No. 19, *Ryan v. Pennsylvania Railway*, was marked and received in evidence.)

Mr. Bowles, III: I would like to introduce next, Your Honor,—that is the decision, Your Honor, of the intermediate appellate court in Illinois that you are now looking at, Exhibit 19.

The Court: But it was not reversed; it didn't go further?

Mr. Bowles, Jr.: No, sir.

Mr. Bowles, III: No, it did not go further.

The Court: Now, then, you have another one?

Mr. Bowles, III: The next exhibit I would like to introduce is the case of *In re: O'Neill* in 5 Fed. Supp., 465. This is a New York case, a case from the Eastern District of New York, in the District Court, and I would like to introduce this as Exhibit No. 20, Your Honor. It is also a [fol. 110] photostat of the opinion, of course.

The Court: Exhibit No. 20 is identified and filed.

(Plaintiff's Exhibit No. 20, *In re: O'Neill* case, was marked and received in evidence.)

Mr. Bowles, III: The purpose of introducing this exhibit is a similar situation as in the *Ryan* case.

I would like next to introduce the record in the case of *Young against GM & O.*, the testimony in that case, a certified copy of that record, as Exhibit 21. The certificate appears on the last page, Your Honor.

The Court: This case from the District Court of the United States of the Eastern District?

Mr. Bowles, III: Of Missouri.

The Court: Of the Eastern Division of the Eastern Judicial Division of Missouri, is identified and filed as Plaintiff's Exhibit 21.

Mr. Bowles, III: Yes, sir.

(Plaintiff's Exhibit No. 21, Young v. GM & O case, was marked and received in evidence.)

Mr. Bowles, III: Now, that case, Your Honor, contains the next two exhibits, but I have photographed those and [fol. 111] will introduce those separately. Briefly, that case was an attempt on the part of the railroad company to prevent regional counsel, DePareq, from representing the plaintiff, Young, on the basis that the case had been solicited as a part of this, the plan of the Legal Aid Department, and in that case, DePareq testified that up until June 15, 1946, the plan was in operation exactly the same way as it was described to you in Exhibit 17, but that on the date of June 15, 1946, a letter, which I will introduce in a moment, was sent out by President Whitney ending the fee-splitting, and a letter similar to the magic date letter that we have here.

Mr. Stallard: I would like to make a reply to that.

The Court: Yes, I have got a question about that, myself. You want to introduce that now, as Plaintiff's Exhibit No. 21-A, or as No. 22?

Mr. Bowles, Jr.: 21.

Mr. Bowles, III: The exhibit of the letter of June 15, 1946, to regional counsel, DePareq, from the president of the Brotherhood, Whitney, I would like to introduce that as Exhibit 22. Now, it was introduced as DePareq's Exhibit No. 2, in our Exhibit No. 21. That also was a photograph.

The Court: This is 22, the letter dated July 22, 1946, is identified and filed as Plaintiff's Exhibit 22.

[fol. 112] (Plaintiff's Exhibit No. 22, a letter, was marked and received in evidence.)

Mr. Bowles, III: I think the date of the letter is June 15, Your Honor, 1946.

The Court: I read the wrong date, the date of this letter.

Mr. Stallard: May I see the letter?

The Court: It is June 15, correct the record, please. Letter dated June 15, 1946, it is filed as an exhibit. It was filed as an exhibit in the case covered by Exhibit No. 22 on July 22, 1946.

Mr. Bowles, Jr.: That is Exhibit No. 21.

Mr. Bowles, III: In the case covered by Exhibit No. 21, Your Honor.

The Court: That is right, 21. Now, Mr. Stallard, you have something to say about that?

Mr. Bowles, III: Well, may I introduce the other letter first, and I think we can cover it all at one time.

The Court: Yes, sir.

Mr. Bowles, III: I would like to introduce here the letter of June 15, 1946, from President Whitney, directed to all regional counsel, as Plaintiff's Exhibit No. 23, and this previously DeParcq's Exhibit No. 3 in our Exhibit No. 21.

[fol. 113] The Court: The letter from Whitney, president, to all regional counsel dated June 15, 1946 is identified and filed as Plaintiff's Exhibit No. 23.

(Plaintiff's Exhibit No. 23, a letter, was marked and received in evidence.)

Mr. Bowles, III: I just want to point out to the Court at this time that in 1946 the regional counsel who was thought to be a party in this suit had been appointed; Mr. Savage having been appointed in 1937.

Mr. Stallard: Your Honor, I would object to the introduction of both exhibits, especially Exhibit 22 and 21, on the ground that photostatic copies of letters which are not signed purportedly from Mr. A. F. Whitney and for the reason that there is no explanation behind it, other than on the record, 27, Mr. Kennedy was asked about the letter which I hold, which I believe is Exhibit No. 21 that you have to DeParcq, letter to DeParcq.

The Court: Wait one minute; that is 22.

Mr. Stallard: Is that 22?

The Court: I reckon it is the same one dated June 15, '46.

Mr. Stallard: Yes, sir.

The Court: All right.

[fol. 114] Mr. Stallard: Mr. Kennedy was asked by counsel for the plaintiff here:

"Question: If Mr. Kennedy, these are correct letters, it would appear that Mr. Whitney did in 1946 exactly what you did in 1959, wouldn't it?"

He said: "No sir, I wouldn't understand it that way."

Question: "Wouldn't you understand that 'Please be advised that neither the Brotherhood of Railroad Trainmen nor any department or bureau thereof is financially interested in any case or cases now pending or to be filed by you in any court, in any state, against common carriers or others, and that no part of any fee received by you as anticipated will be accepted by the Bureau of Railroad Trainmen.'"

Mr. Kennedy: "I would take it that Mr. Whitney dismissed DePareq as a legal representative of the Brotherhood."

Question: Well, this was addressed to all regional counsel of the Brotherhood of Railroad Trainmen."

Certainly, this letter that he just read was not addressed to all counsel of the Brotherhood. There is a shorter letter which was not presented to Mr. Kennedy, so Mr. Kennedy had no way of explaining the letter which is being introduced here, the short letter, not this long one, to DePareq. This letter was read to him. It is in the record, page 27. [fol. 115] Mr. Kennedy said, in reply to this, "All I understand is that he is being fired as lawyer."

The Court: Well, there is a question about construction of a written instrument. I reckon the Court can construe it without any testimony.

Mr. Stallard: Well, sir, he was questioned of this letter.

The Court: You may bring Mr. Kennedy in to explain it, if you want to.

Mr. Stallard: He did explain it.

The Court: But you didn't ask him about the little letter?

Mr. Stallard: No, they didn't ask him.

The Court: And you didn't, either?

Mr. Stallard: I didn't know of its existence until this minute; how could I? I was present, Your Honor, and he

makes no—I didn't introduce it, and he makes no reference other than he read this letter.

Mr. Bowles, Jr.: I hand you a copy of the two letters; these letters are filed as DeParcq's Exhibit No. 2 and 3 in the proceeding against Young in the Ohio Railroad, in the United States District Court, No. 3957, in 1956, both letters—that means two.

Mr. Stallard: I didn't understand that the letter—
[fol. 116] Mr. Bowles, Jr.: Well, you just didn't listen at that particular time.

Mr. Stallard: He asked him about this written letter from the record.

Mr. Bowles, Jr.: You are reading from the wrong page.

Mr. Stallard: I don't know what page you are reading from.

Mr. Bowles, Jr.: 26.

The Court: It is almost impossible to disagree.

Mr. Stallard: I don't think it is important enough to.

The Court: I think it is important enough, perhaps, in its implications, but your objection is on the record; what is your objection?

Mr. Stallard: I don't know the background of these letters. Mr. Whitney may have had some reason for writing the letter. I don't know why he wrote it. He is dead, and I can't examine it.

Mr. Bowles, Jr.: That is Exhibit 21.

Mr. Stallard: We are speculating—back in 1946—it would be a speculation, what was meant by these letters. You say you can construe them, but I often think that if you [fol. 117] get a little information from people who write contracts, and why they write them, the construction of them is what they do under them, so the construction is important.

The Court: Well, that is the exact question now, your objection is overruled, and I think, at the same time, you may note your exception.

Mr. Stallard: I except for the reasons stated.

The Court: That is correct. Now, I want counsel to appreciate this. I am not making any ruling against Mr. Stallard, but I am giving you the benefit of mental process that may be helpful to you. I understand that this practice

of fee-splitting, these two letters plainly show that it purported to be abandoned in 1946, and I have understood to date that it was in full force and effect up until immediately before April 1, 1959.

Mr. Bowles, Jr.: That is correct.

Mr. Stallard: My client filed a suit in 1955, Supreme Court of Illinois, in which they state that the fee-splitting is in existence, and the Court in that case, enjoined them.

The Court: I am merely telling you that there is an implication here that when you say you are going to stop fee-splitting, you don't do it, that is all I am trying to say.

Mr. Stallard: Well, but that is not in any—I can't make [fol. 118] any explanation as to that second letter, but the first letter was firing the lawyer, just firing him.

The Court: I don't think so. Read it carefully. I don't see how you can possibly put that interpretation on it. He speaks of not only pending cases, but future cases, that that regional counsel is going to handle, in that letter.

Mr. Bowles, III: The Exhibit 21, I think adequately explains them, of the background of why the letter was written.

The Court: I just want Mr. Stallard to appreciate the trend of my thoughts without any decision.

Mr. Stallard: Okay.

The Court: And I want you to read that letter from DePareq, that longer letter of the second, and it doesn't fire him. He refers to the future cases that DePareq is going to handle.

Mr. Stallard: Well, the evidence further on says he was fired, and I don't think counsel takes the position he wasn't fired.

Mr. Bowles, III: Not because of that.

Mr. Stallard: Well, I construe—President Kennedy construed that this was firing him, that they wouldn't have anything to do with him thereafter.

The Court: I can't agree with President Kennedy on [fol. 119] that. I might state that now, and still I am not deciding that.

Mr. Bowles, Jr.: Well, Your Honor, I realize that, but there is something in the record I want to get straight at this place. At page 26 of Mr. Kennedy's deposition which

we will take up later, you will find that he was asked to read those two letters, and he did do so at that time.

The Court: I understood that.

Mr. Bowles, Jr.: I didn't know whether you did or not.

The Court: I have listened as well as talked, Mr. Bowles.

Mr. Bowles, III: I would like to introduce next, Your Honor, the record in the State of North Carolina, *ex rel. W. K. McLean against C. O. Hice*, et al., consisting of the complaint, one notice, motions, and the final judgment, all stapled together and certified, and I would like to have that marked as Exhibit 24, if Your Honor please.

The Court: Plaintiff's Exhibit No. 24, North Carolina case, identified and filed. You want to comment on this case?

(Plaintiff's Exhibit No. 24, *W. K. McLean v. C. O. Hice* [fol. 120] case, was marked and received in evidence.)

Mr. Bowles, III: I don't believe at this time, Your Honor, that perhaps could be saved, except to the effect that Mr. McLean who is listed as the secretary defendant, Your Honor, was regional counsel, and he is in St. Louis, Missouri—Illinois, excuse me.

The Court: Now, tell me who are Hice, McLean, Roberts, and Mills? Who are they?

Mr. Bowles, III: McLean is regional counsel, or was—he is now dead—for the Brotherhood of Railroad Trainmen in East St. Louis, Illinois. I have got my state right this time, Your Honor. Hice is the regional investigator of the other persons who is named there, individual runners, which this particular attorney employed.

Mr. Stallard: May I ask if Hice is connected with the Railroad Brothers?

Mr. Bowles, III: Hice.

Mr. Stallard: Hice?

Mr. Bowles, III: He was, originally, and left it.

Mr. Stallard: It was Hice, not Rice. I get it. Is he dead or living?

Mr. Bowles, III: Mr. Hice, that I could not tell you. As a [fol. 121] way of not introducing another document, Your Honor, but just to keep the story straight, because we couldn't or did not get this document, the next case in

order was the State Bar of Texas against Hildebrand, which Mr. Kennedy admitted at page 120 he knew all about, and that he had control of that, and he admitted that Hildebrand, who was the regional counsel in Texas, was enjoined and he knew all of the facts of the situation. I just wanted to try to go through these cases in chronological order, and I had to leave out one as an exhibit, and it is not a reported case, and I just wanted to mention it.

The Court: Well, now, one minute. That is a statement of counsel at bar, and not an exhibit?

Mr. Bowles, III: I was merely, for the Court's convenience, putting that in, sir, to be tied up later, in Mr. Kennedy's deposition when that is introduced.

The Court: Oh, very well.

Mr. Bowles, III: But this was purely for the chronological order that these cases occurred.

The Court: Very well, I understand.

Mr. Bowles, III: I would like next to introduce the case of *Hildebrand, et al., against the State Bar of California*, a photostatic copy of the reported opinion in 37 California 2, 504, 225, Pacific 2nd, 508, and I would like that to be [fol. 122] marked Exhibit 25, if Your Honor please.

The Court: *Hildebrand against State Bar of California*, December 20, 1950, identified and now filed as Plaintiff's Exhibit No. 25.

(Plaintiff's Exhibit No. 25, *Hildebrand et al. v. State Bar of California*, was marked and received in evidence.)

Mr. Bowles, III: Incidentally, by way of comment, Your Honor, that is the same Hildebrand that I mentioned in the other case.

The Court: You mean the Texas case?

Mr. Bowles, III: Yes. The next case I would like to introduce is that of *Atchison, Topeka & Santa Fe Railroad Company against Jackson*, again a photostatic copy, 235 Fed. 2nd, 390, as Exhibit 26, Your Honor, and this is a case similar in purport to the Young case, which was Exhibit No. 21.

Mr. Stallard: What is the name of this case?

The Court: *Atchison, Topeka & Santa Fe Railroad Company*.

Mr. Stallard: You didn't give me that.

Mr. Bowles, III: I thought I did.

Mr. Bowles, Jr.: Against Jackson.

[fol. 123] The Court: Yes, sir, J. W. Jackson, United States Circuit Court of Appeals, 10th Circuit, June 27, 1956. Plaintiff's Exhibit No. 26 identified and now filed.

(Plaintiff's Exhibit No. 26, Atchison, Topeka & Santa Fe v. Jackson, was marked and received in evidence.)

Mr. Bowles, III: That is a suit, Your Honor, where the railroad again is attempting to prevent regional counsel from representing the injured member on account of the solicitation, and it is repetitive of the pattern of the actions of the Legal Aid Department, as to the same general effect as *Young against GM & O.*, Exhibit 21.

The Court: Counsel used the word "pattern," which should be borne in mind always in any further proceedings, not to single the initiative taken alone of any one thing, but these things taken together were injunctions. What we mean by a pattern, I recently had a case in which a pattern played a part, I thought, but I could not comply with the request to enjoin this single instance enumerated, that made up the pattern. I enjoined the pattern. Let's bear that in mind, as I know you will, for future consideration.

Mr. Bowles, III: I would like next to introduce, Your Honor, the opinion of the Supreme Court of Illinois, which [fol. 124] is reported in 13 Illinois 2, 391; 150 N.E. 2, 163. Now, not this copy, but another copy, has heretofore been filed by this defendant as Exhibit 4, in response to the first call for production of documents, and I would like this marked as Exhibit 27.

Mr. Stallard: Is that the opinion?

Mr. Bowles, Jr.: That is the Illinois opinion.

The Court: 1958!

Mr. Bowles, Jr.: May 23, 1958.

Mr. Stallard: Your Honor, I would agree to the introduction of this opinion, and I have the Bill of Complaint certified by the Clerk of the Court, and I wonder if it wouldn't be well to put the certified—they say petition, it

is a Bill of Complaint, we would say—but it is a petition, with the opinion. Would there be any objection to introducing that? It has been certified.

Mr. Bowles, III: Well, I do not have with me, but I have all of the briefs in the case back at the office, and I thought if we were going to put any of it in, we might as well put the whole record in.

Mr. Stallard: That is right. I agree to that.

Mr. Bowles, Jr.: If you don't mind, for the orderly pattern of our presentation, could we save that?

The Court: You have the privilege.

[fol. 125] Mr. Stallard: I just thought it might be helpful to be together.

Mr. Bowles, Jr.: I agree with you, at a later time, with some other things added to it.

Mr. Stallard: All right.

The Court: Plaintiff's Exhibit No. 27 identified and filed.

Ⓢ (Plaintiff's Exhibit No. 27, the Illinois case, was marked and received in evidence.)

Mr. Bowles, III: I would like to offer next, Your Honor, as an exhibit, the case of *State ex rel. Beck*, the Nebraska case by the Supreme Court of Nebraska. I would like to introduce this in three parts, as Exhibit 28, and the date of that is May 6, 1960, the decree; as Exhibit 28-A, the opinion of the same Court dated May 6, 1960.

The Court: This is Plaintiff's Exhibit 28. It is now identified and filed. That would be 28-A?

Mr. Bowles, III: Yes, sir.

The Court: 28-A is now identified and filed.

(Plaintiff's Exhibit No. 28 and 28-A, a decree and an opinion, were marked and filed in evidence.)

[fol. 126] Mr. Bowles, III: And as Exhibit 28-B, Your Honor, the stipulation of counsel dated April 8, 1960, in the same case.

The Court: This is 28-B?

(Plaintiff's Exhibit No. 28-B, stipulation in the Nebraska case, was marked and received in evidence.)

Mr. Bowles, Jr.: If your Honor please, I will say this to the Court at this point in the record, solely for the sake of continuity. We had a witness that we wished to present to the Court, but it is now 4:30, and if Your Honor doesn't mind, I am sure you will not, we will go on with this sort of performance, which takes up our time, and defer the thing that we would normally have done at this stage until tomorrow morning.

Mr. Stallard: I would object to that exhibit, Your Honor.

The Court: Which exhibit, now?

Mr. Stallard: That is 28-B, for the reason stated heretofore in the record. Stipulation of counsel would not be binding upon this Court or this lawyer or the parties in Nebraska.

The Court: The stipulation on behalf of the Grand [fol. 127] Lodge Brothers of Railroad Trainmen?

Mr. Bowles, III: And Mr. Kennedy, in his deposition, testified that he not only knew about the case of State ex rel. Beck, but that it was under his supervision and control, and that the decree was entered under his supervision and control.

The Court: This was signed on behalf of the Brotherhood by its attorneys.

Mr. Stallard: Your Honor, I am not familiar with all the issues involved in that case, and I don't know that they would be identical to the issues here. Therefore, I object to it affecting the same issues in this court. It may be, I have never seen it. Counsel passes it up to you. I have never seen it before in my life.

Mr. Bowles, III: He was notified of their existence and the fact that we intended to use them, Your Honor, on the 29th day of September.

Mr. Bowles, Jr.: Just so that the record being now made can serve as an appropriate and helpful index, I just ask that it be noted that Mr. Kennedy's testimony regarding that matter is at page 121 of his deposition, which we will discuss later.

Mr. Stallard: Your Honor, in view of reading this, I withdraw my objection.

[fol. 128] The Court: Yes, sir.

(Discussion off the record.)

The Court: Now we will go back on the record.

Mr. Bowles, III: I would like to introduce next the copy of the consent decree in the *State of Oklahoma, ex rel. Oklahoma Bar Association against the Brotherhood of Railroad Trainmen, et al.* This decree in record No. 38373 is dated April 29, 1960, and this also refers to past acts. I would like to introduce this as Plaintiff's Exhibit No. 29.

The Court: Plaintiff's Exhibit 29 is identified and filed.

(Plaintiff's exhibit No. 29, the Oklahoma case, was marked and received in evidence.)

Mr. Bowles, Jr.: Now, Your Honor, inasmuch as we are using, to a certain extent, this record as a kind of index, I ask that reference be made to Mr. Kennedy's deposition at page 122, where he said that that stipulation in that case spoke for itself.

The Court: I don't want to stop early, but I ask counsel to come in chambers with me at this time. Is that a good place to stop?

Mr. Bowles, III: Well, we are at Exhibit 29. It would [fol. 129] not take us too long, I think, to get to 37, and that would be a somewhat logical stopping point.

The Court: Very well. Let's get onto it as fast as we can. I want to have a few minutes, and I cannot stay until after five o'clock.

Mr. Bowles, Jr.: Suppose we stop after the next two exhibits?

Mr. Bowles, III: Yes. That is also a logical stopping point.

The Court: All right, stop at the next two.

Mr. Bowles, III: I would like to introduce the consent decree in the case of *Hulse et al. against the Brotherhood of Railroad Trainmen*, the consent decree entered by the Supreme Court of Missouri, in record No. 47293, dated November 14, 1960. I would like this marked as Exhibit 30.

Mr. Stallard: Is this Missouri, you say? This is a Missouri case?

Mr. Bowles, III: Yes.

The Court: This, now, is No. 30. Exhibit No. 30 is identified and filed.

(Plaintiff's Exhibit No. 30, Hulse et al. v. The Brotherhood of Railroad Trainmen case, was marked and received in evidence.)

[fol. 130] Mr. Bowles, III: I would like to introduce next, Your Honor, the complaint and other papers in the *State Bar of Michigan against the Brotherhood and others*, consisting of the complaint, the answer to the bill of complaint, the plaintiff's reply to defendant's answer; the proceeding commenced in the latter part of January 1959 in the Circuit Court of Jackson County, Michigan, which is now pending, and in which the same answer or same type of answer as filed in our suit, was filed in that suit. I would like that marked Exhibit 31, if I may, Your Honor.

Mr. Stallard: Your Honor, I would object to that, on the ground that that is a pending suit, and no one knows the disposition, although I understand that the Bar up there is not pushing that suit, for some reason. We have gone up there for trial once or twice, and they won't push the suit.

Mr. Bowles, Jr.: We introduced, Your Honor, the Complaint and the Answer only.

Mr. Stallard: May I say this, Your Honor, I am informed by Mr. Chase that the Bar has withdrawn the suit, so there is some difficulty in that suit.

Mr. Bowles, Jr.: We have asked for it because we are interested in the Answer filed by the Brotherhood; that is what interested us.

[fol. 131] Mr. Bowles, III: That, Your Honor, is a logical stopping point.

The Court: I understand. Now, about this exhibit, I am having a little trouble about the petition. Anybody can say anything they want. The Answer in this suit is a position taken by the Brotherhood in the Answer; if it is pertinent, that would be admissible.

Mr. Stallard: I would say any admissions against interest would be, but I would have to study the bill, and know the Answer, and know why, what reason. I really don't,

I have never seen the Answer, and I don't know anything about it.

The Court: Mr. Stallard may have this overnight in order that he may inform himself and read it. I will not file No. 30 at this time.

Mr. Bowles, III: It is 31, if Your Honor please.

The Court: Yes, sir.

Mr. Bowles, Jr.: If Your Honor please, if I may say this—

The Court:—Now the Court will recess until ten o'clock tomorrow morning, and I will ask counsel to come in chambers.

Mr. Bowles, Jr.: Your Honor, may I just, before you [fol. 132] recess, at page 125, of the president, Mr. Kennedy's statement, he appeared to know all about this proceeding that we are just discussing as Exhibit No. 31.

The Court: Let's postpone everything about 31, Gentlemen, until tomorrow morning.

(Whereupon, the court adjourned until tomorrow, October 10, 1961, at 10:00 a. m.).

[fol. 133]

October 10, 1961

(The case was reconvened pursuant to adjournment on yesterday, at 10:00 a. m.)

The Court: I believe you have already made a statement on Exhibit No. 31.

Mr. Bowles, III: I have, but I would like it marked as Exhibit No. 31, please.

The Court: Plaintiff's Exhibit No. 31 identified and filed. Add to that, no objection to the filing being proposed. That finishes 31, I believe.

Mr. Bowles, Jr.: Yes.

(Plaintiff's Exhibit No. 31, regarding the Nebraska case, was marked and received in evidence.)

Mr. Bowles, Jr.: Call Mr. Robert A. Nelson, please.

ROBERT A. NELSON was duly sworn and testified in behalf of the plaintiff, as follows:

Direct examination.

By Mr. Bowles, Jr.:

Q. Mr. Nelson, would you state your name, age, and occupation, please?

A. Robert A. Nelson, fifty-eight. I am an attorney at law residing at Lincoln, Nebraska.

Q. Did you have occasion to be associated with the Attorney General's office in Nebraska in connection with the case of State ex rel. Beck against certain defendants?

A. Yes. I was acting as a Special Assistant Attorney General in the prosecution of that case.

Q. Now, who were the defendants in that case?

A. The Brotherhood of Railroad Trainmen and Phillip B. Lush, an attorney from Minneapolis, Minnesota, several local lodges of the Brotherhood, and a number of the officers of the local lodges, Mr. Gail A. Clinkenbeard, who was a so-called investigator for the Brotherhood of Railroad Trainmen. I would have to have the file to enumerate all of the particular defendants.

Q. Were you the attorney designated by the State to try, and did you try that proceeding?

A. Yes. I might say that I did not participate in the original filing of the complaint. That was handled by Mr. John Samson, who was a practicing attorney in Omaha, and was designated as a Special Assistant Attorney General. There was some proceeding, I believe a motion to quash, filed against the original complaint which was [fol. 135] sustained by our Court. We were given time to amend, and it was at that time that I was employed by the Attorney General and prepared the amended complaint and handled the prosecution from there on, together with Mr. Samson.

Q. Now, Mr. Nelson, I state to you that Mr. Kennedy, the present president of the defendant Brotherhood in this proceeding, stated on his deposition as follows, and I put this question to him, Your Honor, purely for the pur-

pose of connecting up, not for the purpose of commenting before him.

"Q. I hand you what purports to be an exhibit in that proceeding, State ex rel. Beck in Nebraska, 8 pages; these are photostats, and ask you whether or not you have even seen these records before?

"A. These records, as I recall, are records in the State of Nebraska proceedings—

"Q. That is right.

"A. —which have now been satisfactorily disposed of. They came to Cleveland and with our permission they went through our books and whatever record they found there was the accurate record that we will have to subscribe to."

"I am reading from page 99 of that deposition. Now, are [fol. 136] you personally and individually, Mr. Nelson, the "they" referred to in that statement? Did you go to Cleveland and see the records in the home office of the Grand Lodge of the Brotherhood?

A. I did, together with Mr. John S. Samson.

Q. Now, would you state to His Honor the circumstances under which you did go there, and how you happened to go there, and the part of the proceeding that took place, in order to get you there?

Mr. Stallard: Well, Your Honor please, I object to all this on the ground that the record here, the complete record, is before the Court, and the details of how they got the record would not be pertinent to the issues here at all, whether we are practicing law in Virginia or not.

The Court: Objection is overruled.

Mr. Stallard: Exception for the reason stated.

Mr. Bowles, Jr.: I want to correct one statement by Mr. Stallard. Mr. Stallard, that the complete record is not here before the Court, and I think it just as well at this time to clarify that point with the Court. The Clerk, through some mishap, failed to send part of the record, and that is in the mail now, with its due authentication on [fol. 137] it. We have a carbon copy of it here, and that will arrive during the day, and can be put in with an

authentication according to the Act of Congress. Now, that isn't the reason I am asking this question, sir, I just want Your Honor to understand that some of the record is not yet before the Court.

By Mr. Bowles, Jr.:

Q. Now, Mr. Nelson, you note in what was stated here, "That they came to Cleveland and with our permission went through our books." Now, I want you to tell whether that was a voluntary thing; how it came about that you went to Cleveland?

A. Well, ours was an original action filed in the Supreme Court of the State of Nebraska, and was not only a complaint for injunctive relief, but also asking for a citation for contempt of court. The Supreme Court appointed a referee for the purpose of taking testimony, making his report of findings of fact, and conclusions of law to the Court, for their final determination. We filed a request for answers to interrogatories, and a request for production of documents before the referee. Objections were filed to those; however, their objections were overruled. The counsel then for the defendants appealed that decision to the Supreme Court, the Court sustained the [fol. 138] referee, and there is an opinion on that. Their contention was that this being a contempt action, was a criminal action, and, therefore, that they were not required to produce the documents or answer interrogatories.

The Court held that this was neither civil nor criminal, it had some of the attributes of each, and was an action *sui generis*.

Mr. Stallard: Your Honor please, I want to interpose an objection here. He is speaking what the record held. That would be the best record, and I object to that.

Mr. Bowles, Jr.: We have that to present, Your Honor. The Court: I understand that. I understand that the complete record is coming. The objection is overruled.

Mr. Stallard: Exception.

Mr. Bowles, Jr.: Moreover, that is a reported opinion, sir, what he is referring to now.

A. I am sorry, I can't give you the citation. I neglected to take it down. It is in the Northwestern Reports. Then the Court, having sustained it, overruled the objections. We agreed instead of them producing their records, bringing them all to Nebraska, we offered to go back there, and [fol. 139] view their records and decide what we needed and have copies made. It was on that basis that we went back, and also, counsel for the defendants, their local counsel, were present.

By Mr. Bowles, Jr.:

Q. Who was that?

A. Let's see, we went to Minneapolis, first, to the law office of Mr. Chauncey Barney.

Q. I meant in Cleveland, sir.

A. I believe he was the only one there.

Q. And at Cleveland?

A. And at Cleveland, Mr. John' Binning of the firm of Crosby, Pansing, Guenzel, & Binning, the Brotherhood counsel.

Q. Now I understand you did go to Cleveland?

A. Yes, sir.

Q. And they made their records available to you in response to the order of the Court?

A. They did.

Q. And you were allowed to examine them and copy them?

A. Yes.

Q. Now, who furnished you the copies; who did the copying?

A. The copying was done in the Brotherhood office. We had made an arrangement to have them photographed by [fol. 140] an independent concern, but Mr. Maher stated that they didn't like the idea of the records going out of the office, and they had a process where they could make the copies and were willing to do so, and of course the State of Nebraska paid for the copies.

Q. Now, Mr. Nelson, you said Mr. Maher. Who is that?

A. Well, he was, I believe his designation was secretary of the Legal Aid. I couldn't be sure of that title.

The Court: What is that name? I didn't catch it.

Mr. Bowles, Jr.: C. R., I believe, are his initials, Maher. I have heard it pronounced a number of different ways. I am not sure about that.

The Witness: I may not be pronouncing it correctly.

By Mr. Bowles, Jr.:

Q. I don't know how you pronounce it, but he was what I believe they called a Chief Clerk of the Legal Aid Department; is the way.

Q. A. I think that is correct.

Q. We have correspondence to put in about it. Now, Mr. Nelson, did you bring with you the original photostats that were furnished to you by Mr. Maher at that time? [fol. 141] Have you got them with you?

A. I brought with me part of them, not all of the records we copied.

Q. Would you show to the Court what it is that you did bring with you?

A. Yes.

Q. That you got directly from those officers.

A. Well, I will start with this one.

Q. Your Honor, I am wondering whether or not he might not make use of a table or something, because I think he wants to point out to you personally some of these exhibits, and we don't have copies of them.

A. I think this will do. I don't like to turn my back to counsel here.

Q. Now, Mr. Nelson, will you tell me, first of all, please, sir, whether or not in the records that were presented to you in your case and copies of which you took and have brought here, have any relationship to the contributions made by regional counsel to the Legal Aid Department in certain years?

A. Yes, they do.

INTRODUCTION OF PLAINTIFF'S NELSON EXHIBITS A THRU M WITH COMMENTS OF BOTH PARTIES

Q. Well, now, let's talk about that batch first, and let's undertake to tell the Court what you have there, and how

many pieces of paper they are, and what years they relate [fol. 142] to, and what they show.

A. This is a copy of their records showing the contributions made by regional counsel for the expenses of operating the Legal Aid office of the Brotherhood, for the years 1953 to 1958, inclusive.

Q. Now, do you recall what book that came from?

A. As I remember this, these records were on just Senate pads.

The Court: I didn't catch the word.

By Mr. Bowles, Jr.:

Q. You mean this kind of a thing (indicating)?

A. Yes, either that or white paper, similar to that. They were not in any book.

The Court: Indicating a Blackstone tablet? I know what that is.

By Mr. Bowles, Jr.:

Q. I have learned that they call them Senate pads in Nebraska.

The Court: That word is strange to me.

Mr. Stallard: Your Honor, I would like to call attention to the Court that our answer admits that the regional counsel did make contributions, so this is admitted by the Answer, and this is going to be the details, [fol. 143] as I understand it, but we admit this.

Mr. Bowles, III: We called for these documents, and you produced some of them, but said you didn't have others.

Mr. Bowles, Jr.: That's right, and also, this is going to show how much.

Mr. Stallard: Well, I don't understand. If it would be any amount, a million or five thousand, it would be the same. We admit the contributions.

Mr. Bowles, Jr.: I disagree, Your Honor.

The Court: I will overrule that.

Mr. Stallard: Make exception, please.

By Mr. Bowles, Jr.:

Q. Now, the first one that you have there, the first batch that you have, shows the contributions from '53 to '58, you say?

A. That is correct.

Q. Now, would you read to the Court, please, sir, the amount of contributions made in the several years by Mr. Bernard Savage appearing on that list?

A. In 1953, Mr. Savage's contribution was \$4,173. Do you want each year?

A. Yes, each year, please.

A. In 1954, his contribution was \$2,722.50. In 1955, it [fol. 144] was \$1,821.72. I seem to have two sheets on '55; however, one of them appears to be a record before the payments were completed. It shows total owed on that one by Mr. Savage of \$1,821.72. This one apparently was the record entered, and then the second one shows when the payment was made, so that is the same figure. In 1956, Mr. Savage contributed \$5,028.60. In 1957, \$2,076.01. In 1958, \$1,020.

Q. Now, does any of that record show when the 1958 payment was made?

A. February 12, 1959 shows the payment, date received.

Q. That \$1,020 was made February 12, 1959?

A. That is correct.

Q. Now, would you file that, please, and, if Your Honor please, may I keep the continuity by making this Nelson Exhibit No. 1?

The Court: Just Exhibit A, I believe. There are not going to be too many. This Exhibit Nelson A, Exhibit Nelson A consists of 7 sheets, if I have counted them correctly, now identified and filed.

(Plaintiff's Nelson Exhibit No. A, a record, was marked and received in evidence.)

The Court: Did Mr. Nelson state when this examination [fol. 145] was made?

By Mr. Bowles, Jr.:

Q. He has not, as I recall, sir. Do you recall when this was done?

A. I think it was the last day of August, 1959.

Q. In Cleveland, Ohio?

A. Correct.

Q. Now, do you have a similar record there from the years 1951 and 1952?

A. I have a record which relates solely to the firm of Davis, Yaeger, McGinley & Lush, and it shows on there when payments were made to the Brotherhood; also, salaries that were paid by the Brotherhood to certain of these regional investigators.

Q. Now, do the names of them show on there?

A. Not on this exhibit, I don't believe.

Q. Now, Mr. Nelson, I ask you this: You are interested in a piece of litigation in *ex rel. Beck* case which had to do with which one of these regional counsel; what was that firm?

A. Well, we had two firms involved. First, Davis, Rerat, Yaeger & Lush, and then that firm was dissolved, I believe, on December 31, 1955. They separated, and Davis and Lush formed a separate firm. So we had both of those [fol. 146] involved; however, the territory was divided up at the time of the dissolution of the firm, and the Nebraska territory which had been previously assigned to the Davis, Rerat, Yaeger & Lush firm was given to Mr. Lush or Davis & Lush.

Q. Now, I take it when you went there to investigate these records, you were not interested in the records relating to Mr. Savage?

A. No, we were confining that to the parties involved in our litigation.

Q. Can you tell this Court when you examined those records, whether or not similar records were there that you are now talking about, showing the same types of things with relation to the other regional counsel?

A. Yes. There were records for other regional counsel. However, I paid no particular attention to them. We skipped those. We asked for the ones we wanted.

Q. You did not examine the records that were there showing the relationship and the payments and so forth between the Legal Aid Department of the Brotherhood and Mr. Bernard Savage?

A. No.

Q. But there were such records?

A. Yes, there were.

Q. Now, sir—

[fol. 147] A. I might state, if that would help any, that my information shows that that was taken from book No. 1.

Q. Now, this book is headed "Membership and System Register," and what is at the top of this?

A. Well, that is DYMCG & L. Davis, Yaeger, McGinley & Lush.

Q. And these papers, I take it, show a running account with that firm?

A. That is correct.

Q. I ask you to file that, if you will, please, sir, as Nelson Exhibit B.

The Court: Identified and so filed, Nelson Exhibit B, consisting of 4 photostat sheets.

(Plaintiff's Nelson Exhibit B, an account, was marked and received in evidence.)

By Mr. Bowles, Jr.:

Q. Mr. Nelson, I call your attention to a mistake that I have made in regard to the years that I have covered, the paper that you have filed as Nelson Exhibit B is the account for 1959 through '51, I believe?

A. No, 1949.

Q. '49, I mean.

A. To '51.

[fol. 148] Q. I made another mistake, so Exhibit B covers '49 to '51. Now, do you have another record that you obtained there, that shows the record for '51 and '52?

A. Yes, I do. That was taken from a different book. I have an indication for information from book No. 2.

Q. Now, what does that show, sir?

A. Well, that also shows a running account with the firm from January of 1952, and also I have attached thereto—yes, then it shows payments made in '52 for '51 expenses. It also, on the last sheet thereof, contains a list of other regional counsel. I don't know why we took that.

Q. Now, I ask you to file that, please, sir, as Nelson Exhibit C.

The Court: Nelson Exhibit C, consisting of 4 photographed sheets, filed as Nelson Exhibit C. I understood the witness to say that this had to do with the firm—what did you mean by "the firm"?

The Witness: Oh, the firm of Davis, Yaeger, McGinley & Lush.

(Plaintiff's Nelson Exhibit No. C, an accounting, was marked and received in evidence.)

The Court: A firm of attorneys?

The Witness: At that time, a firm of attorneys in Minneapolis, Minnesota.

The Court: Yes, sir.

By Mr. Bowles, Jr.:

Q. Now, before we pass on to the next exhibit, Mr. Nelson, I ask you to give your attention to Exhibit—Nelson Exhibit A, and turning to the fifth page which relates to the showing of contributions by the regional counsel to the maintenance of the Legal Aid Department in the year 1959, I ask you whether or not, sir, this particular account for that particular year undertakes to show what the gross take of each of these attorneys was for that year, and the gross amount of recoveries which they had undertaken to represent members in?

A. Yes, it does.

Q. Now, Mr. Henslee, I believe the record shows, was the general counsel for this company, this association, was it not?

A. I understood—I don't know whether that is shown by the exhibit or not.

Q. I understand that.

A. Yes.

Q. His son, Mr. Edward Henslee, is now the general counsel, I believe?

A. I think that is correct.

[fol. 150] Q. Now, in 1955, how much was the gross amount of recoveries that Mr. Henslee had in that year of 1955?

A. \$2,908,853.68.

Q. What was his percentage that he had to contribute of his fees on that amount to the Brotherhood as shown on that exhibit?

A. Well, I don't think it is the percentage of his fees. It is the percentage of the total cost of operating the Legal Aid Department.

Q. Now, what was that percentage?

A. 33.5 percent.

Q. That is based, I believe, according to the scheme and system on the percentage that his gross take bore to all the others?

A. Yes. I think that was explained to us by Mr. Maher.

Q. Now, in that year he made a contribution of how much?

A. \$19,109.25.

Q. Who is the next one of that list there?

A. The next one was the firm of Davis, Rerat, Yaeger & Lush. They were the Minneapolis attorneys that had the Nebraska territory at that time.

[fol. 151] Q. That is the firm that you were interested in?

A. Yes, one of the two we were interested in.

Q. How much was their gross amount of recoveries for members?

A. \$1,888,037.02.

Q. And what percentage did they pay, what is shown there for that firm?

A. 21.777.

Q. And what was their contribution?

A. \$12,412.89.

Q. Now in that same year, sir, is Mr. Savage shown?

A. Yes, sir, he is.

Q. Tell me what his gross take is?

A. Yes, \$273,750.

Q. What was his percent?

A. 3.196.

Q. And in that year, how much did he contribute?

A. \$1,821.72.

Q. Now, sir, would you look at the year '54; are the same sort of figures carried on that one?

The Court: What was the first year that he was addressing himself to?

Mr. Bowles, Jr.: That was '55, 1955.

[fol. 152] A. Yes, they are shown for '54, also.

By Mr. Bowles, Jr.:

Q. What was Mr. Henslee's take in that year?

A. \$2,892,993.60.

Q. And his percent?

A. 35.86.

Q. And his contribution?

The Court: What year are we talking about now?

A. '54; \$18,795—wait a minute—there are two figures here.

By Mr. Bowles, Jr.:

Q. He carried over an owing balance at the end of the year, did he not, of \$929?

A. Oh, that's right, his total apparently was \$19,723. And then there was a credit of \$927.18 that he had partly been overpaid.

Q. And that year, what was the gross of the Davis, Rerat, Yaeger & Lush?

A. They had \$1,743,513.26.

Q. And their percent?

A. 21.67.

Q. And their contribution?

A. \$11,918.50.

Q. Now, what was Mr. Savage's gross in that same year [fol. 153] of 1954?

A. \$387,894.

Q. And his percent of contribution?

A. 4.95.

Q. And the amount of his contribution?

A. \$2,722.50.

Q. Do any of these other years indicate the gross amounts, other than '54 and '55?

A. No, I don't believe they do.

Q. Would you look at '54 again, and tell us what Mr. Hildebrand's gross was in 1954?

A. Mr. Hildebrand's recoveries were \$960,657.93.

Q. And that is in '55?

A. Oh, yes, that is '55.

Q. That's right, and in '54?

A. And in '54, it was \$747,937.48.

Q. Have you got it on there, any showing for either of those years for Lewis & Lewis?

A. L & L, I assume that is Lewis & Lewis, yes.

Q. Now, in 1954, what was their gross?

A. \$166,523.20.

Q. And in '55?

A. \$175,964.08.

Q. Do you find Mr. Rives on there, on either of them?

[fol. 154] Mr. Stallard: Your Honor please, I object to this, please, because I don't think this attorney knows who Mr. Rives is, unless he personally knows him, he is reading something off a photostatic copy.

Mr. Bowles, Jr.: If Your Honor please, I can't do it all at once. I expect to show who Mr. Rives is, and will directly.

The Court: Well, he is undertaking to look through a document to see if Rives is on that document.

Mr. Stallard: As he said, he had L. & L., and he assumed that was Lewis & Lewis.

The Court: You know whether it was or not?

Mr. Stallard: No, sir, I don't know. I would assume, too.

The Court: I was hoping it was stipulated.

Mr. Stallard: I just don't know, but I would assume.

The Court: Rather than say L. & L. shows so-and-so.

Mr. Bowles, Jr.: This purports, if Your Honor please, to be a list of regional counsel in that year. We will show by the director, Messrs. Lewis & Lewis, which, I presume, [fol. 155] were L. & L., were regional counsel in that year.

The Court: I merely suggested that the witness in answer to your question about Lewis & Lewis, says he found an item, L. & L., without any assumption, if you please.

Mr. Bowles, Jr.: That is correct.

By Mr. Bowles, Jr.:

Q. Do you find R & R on there?

A. Yes, I do, in 1954.

Q. For '54, what about R & R, their gross?

A. \$199,845.46.

Q. How about in 1955 for R & R?

A. May I ask whb R & R is?

Q. I propose to show that Mr. Rives was a regional counsel in those years, so that is the only "R" I see on that particular one, but here is a JR & P, if that is it; how much is JR & P? Well, the exhibit speaks for itself.

The Court: It hasn't been put in, or has it been put in?

Mr. Bowles, Jr.: Yes, it has been put in.

A. There is JR & P.

By Mr. Bowles, Jr.:

Q. I just wanted to call to Your Honor's attention some [fol. 156] of these amounts. Now, Mr. Nelson, in connection with the defendant regional counsel firms that were defendants in the same case in which the Brotherhood was a defendant, do you have with you the records from that firm that correspond in amounts with the contributions shown by the records of the Brotherhood paid by this firm?

A. Yes, I have records here that list the individual investigators that were being paid monthly or semi-monthly by the Brotherhood, and the contributions that were made by the firm to reimburse the Brotherhood. When I say "Brotherhood," I guess I should say, the "Legal Aid of the Brotherhood."

Q. Now, stop on that just a moment, sir. Do these records show whether or not the regional investigators had deducted from the salaries paid them by the Brotherhood, their—what do you call it—their railroad retirement pay and unemployment pay, as if they were operating members of the Brotherhood?

A. Yes, I am not sure of the particular exhibit. I was looking at them.

Q. Well, do you have records here that show that, that fact?

A. Yes, I do, and I believe some of that is shown in this particular group that I have here, but not as complete maybe as some other exhibit.

[fol. 157] Q. Well, when we speak as you are testifying from these exhibits now, about the salaries paid by the Brotherhood to the regional investigators which complete total amount was reimbursed, or part of it reimbursed, by the regional counsel to the Brotherhood Legal Aid Department, that salary, I understand, your records show carried with it deductions for railroad retirement under the Act, and also the unemployment?

A. Yes.

Mr. Stallard: Your Honor please, counsel is leading his own witness, by suggesting answers, and also, I take the position this witness doesn't know anything about it. He says social security, and used the word social security.

Mr. Bowles, Jr.: No, I didn't say social security.

A. You said retirement, and then he said social security.

Mr. Bowles, Jr.: No, railroad unemployment, sir; railroad unemployment is what the record shows.

The Court: Well, we will see by the records.

Mr. Stallard: I don't believe this witness can testify to those things, unless he knows of his own knowledge.

[fol. 158] The Court: I understood the witness to say that what he has testified to is shown by certain records of the Legal Department of the Brotherhood, which he has available.

Mr. Bowles, Jr.: That is correct.

Mr. Stallard: Well, if he can tell what they are, I would like for him to tell in language, not just assume that it is retirement, and assume that.

Mr. Bowles, Jr.: I acknowledge, Your Honor, that I, perhaps, am technically leading; I am trying to save time because I want to get to this record, and I want to point that out at the appropriate time. I concede very fully that this witness has, I imagine, no specific knowledge of his own about that. I am asking what this record shows.

The Court: I think that is not objectionable. Avoid leading, as much as you can.

Mr. Bowles, Jr.: I shall do so, sir.

Mr. Stallard: Your Honor please, I would like to interpose, the record speaks for itself, and if he introduces it, it is interpreting the record, and I think the record will speak for itself, Your Honor. You can interpret that.

The Court: The exhibits do speak for themselves, and [fol. 159] there is no use reading into the record precisely what any exhibit says, that is right, but if there is an obscurity in the record, the Court will welcome any association that might aid the Court.

Mr. Stallard: I will go along with that.

The Court: I believe we understand each other.

By Mr. Bowles, Jr.:

Q. Yes, sir, I think so. I am merely trying to point out to the Court certain specific items that I wish the Court to look at, through this witness.

A. May I correct an answer? I think I stated that this man didn't show it, but it does show the salary, the railroad retirement tax, and the unemployment contribution.

Q. That is what I had reference to.

The Court: Now, what document are you now reading from?

A. This has not been identified as yet.

Mr. Bowles, Jr.: I am getting ready to introduce it now, and I wanted to point that out to Your Honor, so that you would see that particular thing.

The Court: All right, I wish you would file it first.

Mr. Bowles, Jr.: I stand corrected, sir. I think that is [fol. 160] a much better method of procedure.

By Mr. Bowles, Jr.:

Q. Now, what is this that you have in your hand, and where did you get it from, and where did it come from, and I will then ask you to introduce it as Nelson Exhibit D.

A. Well, this was taken from book No. 3, and relates to the firm of then, Davis, Rerat, Yaeger & Lush, and shows

the salaries of the regional investigators that were being reimbursed to the Legal Aid, and covers—well, it runs clear through 28. However, perhaps I should explain that this is not just a straight running account through that book, and I have the indications here of the pages that locate the information.

Q. Would you please state in the record, what pages you got that from in that book?

The Court: Pages of the book of the Legal Aid Department?

Mr. Bowles, Jr.: That is correct.

A. Yes.

Mr. Bowles, Jr.: Now, I will explain that, Your Honor, because he was only interested in this one firm and that is why it skips from page to page.

A. Well, these are pages, 24, 25, 26, 27, 28, 29, 78, 79, 80, 81, 82, 83, 98, 99, 100, 101, 106, 107, 108, 109, 110, and 111.

[fol. 161] By Mr. Bowles, Jr.:

Q. Now, could you tell us whether or not that book that you had reference to, had similar records with regard to other regional counsel?

A. Yes, in between these pages were records relating to others.

Q. Now, Mr. Nelson, if you will file that as your Exhibit D with your testimony, and then would you please—

The Court: I will file it first.

Mr. Bowles, Jr.: Yes.

The Court: Plaintiff's Exhibit Nelson D is filed, identified and filed.

(Plaintiff's Nelson Exhibit No. D, records, was marked and received in evidence.)

By Mr. Bowles, Jr.:

Q. Now, Mr. Nelson, would you please, sir, come around and point out to the Court the matters about which I was asking you a moment ago on that exhibit, with relation to

the railroad unemployment tax and the railroad retirement tax?

The Court: Now, may I, before you do that, in your zeal and anxiety—I can't keep lawyers from reading into the [fol. 162] record what exhibits show—why can't you point it out to me in argument, just as well as the witness can?

Mr. Bowles, Jr.: You use the term "just as well as," sir; I am interrogating the witness that tried this case, and I think he can explain it so much better than I can, to Your Honor; that is the only reason that I have asked him to do that.

The Court: You just asked him to point out how those show, and where they show. They are before you.

Mr. Bowles, Jr.: That's right, sir.

The Court: Merely a suggestion. We don't want to go on forever.

By Mr. Bowles, Jr.:

Q. What names indicated there on that record as being the investigators paid by the Brotherhood and assigned to that particular firm for operation?

A. Well, as of January, 1954, there were the following: I. K. Byers, B-y-e-r-s, L. J. Calkins, G. A. Clinkenbeard, W. P. Maroony, and G. J. Rerat. Now, there have been changes later on; some of these are eliminated, some others added.

Q. Well, now, would you just briefly thumb through this, [fol. 163] and tell me the names of any others that might have been added? There is McNurlan on there.

A. Yes, in October '54, McNurlan appears.

Q. Now, explain to the Judge at the first page of that exhibit, what the situation is about, and what is shown there about the railroad retirement plan; just take Mr. Clinkenbeard as an example.

A. Mr. Clinkenbeard was paid a salary of \$400 a month, and his railroad retirement tax was \$18.75 per month, his unemployment compensation contribution was \$1.50 per month.

Q. Now, that is railroad unemployment, I believe, isn't it?

A. Yes, that is what it is.

Q. Now, is there anything on this particular Exhibit D that you have that shows the contribution, or how this thing worked, about who actually paid that money to him?

(Discussion off the record.)

By Mr. Bowles, Jr.:

Q. Now, what I am asking you now is, do you have from the records that you took from the Brotherhood office, that they gave you in response to your call, do you have correspondence relating to the matter of how these men got [fol. 164] on the payroll and at whose request, and who paid them, and why?

A. Yes, I have some correspondence relating to that.

Q. Would you have—well, first of all, would you file that, please, as Exhibit E?

The Court: Recess until 11:25, please.

(Recess)

The Court: Mr. Stallard is looking at proposed Nelson Exhibit E?

A. You want this identified now?

Mr. Bowles, Jr.: Yes, if you will, please.

Mr. Stallard: Your Honor, I have examined that and it appears that the lawyers paid the investigators' fee separate from the contribution. I will be glad to stipulate it, because I think that is what took place. I think the correspondence shows that, or it doesn't show it, but that is my conclusion. I think that that is a true statement.

Mr. Bowles, Jr.: Well, I am very pleased to stipulate that, sir, but I would like to have my exhibit marked, just the same.

Mr. Stallard: That is all right.

[fol. 165] The Court: You do not object to this?

Mr. Stallard: No, sir.

The Court: Nelson Exhibit E is identified and now filed.

(Plaintiff's Nelson Exhibit No. E, an account, was marked and received in evidence.)

By Mr. Bowles, Jr.:

Q. Now, sir, Mr. Nelson, I ask you just briefly, will you put into the record here as part of the case that you were interested in, the correspondence from Mr. Kennedy, I believe, the two letters appointing these firms that you were interested in, as regional counsel, just for the sake of the record, please, sir, as Exhibit F?

Mr. Stallard: I will not object to that, Your Honor, if that was taken by this witness from the books at the home office, but if this is some photostat of some photostat machine, I would object to it.

Mr. Bowles, Jr.: I am not undertaking to offer here anything, sir, except what he got. I asked him that to start with.

Mr. Stallard: If that is true, I don't object to it.

The Court: Mr. Nelson, the paper that you now have is [fol. 166] a photostat taken from the books of the defendant Brotherhood?

The Witness: Well, these are two copies of letters appointing the regional counsel.

The Court: You obtained them from the Brotherhood office?

The Witness: Yes.

The Court: Made photostats there?

The Witness: That's right, these are the actual photostats that we received.

Mr. Stallard: No objection.

A. We had two copies of each instrument.

Mr. Stallard: No objection.

The Court: Plaintiff's Exhibit Nelson F is now identified and filed.

(Plaintiff's Nelson Exhibit No. F, letters, was identified and received in evidence.)

By Mr. Bowles, Jr.:

Q. Now, do you have the records that you got from the office of the Brotherhood, at the time that you went there and got these photostatic copies of their payroll records on Mr. Clinkenbeard for the years 1951, '53, '54, '56, and

'58, showing the semi-monthly salary payments by Legal [fol. 167]. Aid Department of that individual?

A. Yes, I do.

Q. Would you put those in evidence, please, sir, as Exhibit No. G?

The Court: Plaintiff's Exhibit, Plaintiff's Nelson Exhibit G, is identified and filed.

(Plaintiff's Nelson Exhibit No. G, consisting of records of Mr. Clinkenbeard, was marked and received in evidence.)

By Mr. Bowles, Jr.:

Q. Now, Mr. Nelson, I ask you what that Exhibit G came from, from a book—no, not this one—but the one you just filed, Exhibit G?

A. Yes, that came from a book in the Legal Aid office.

Q. Now, did that book also contain similar records with regard to the other regional investigators assigned to other firms?

A. It had that in there, but we didn't pay any particular attention to it.

Q. You were only interested in the regional investigators that had been assigned to the firms that you were concerned with?

[fol. 168] A. That is correct.

Q. Now, have you please sir, the record of the monthly payments by Rerat, Lush, and Yaeger for Mr. McNurlan, Mr. George Rerat, and Mr. Clinkenbeard, the salaries in 1959?

A. Well, I have the records for the year 1959 of the salary charges made to Phillip Lush, Eugene Rerat, Yaeger & Yaeger, and—well, the last pages, the payment of expenses for some of the debts in our case, some of the local officers for attending a conference.

Q. Now, would you file that, please, sir, as your Nelson Exhibit H?

The Court: Nelson Exhibit H, identified and filed.

(Plaintiff's Nelson Exhibit No. H, record of account, was marked and received in evidence.)

By Mr. Bowles, Jr.:

Q. Now, with reference to Nelson Exhibit H, Mr. Nelson, what individuals—well, the exhibit will show for itself. There is one item that I wish to point out in the record, sir. I hand you Nelson Exhibit H, sir, and ask you if you will tell me what is the last date in 1959 for which such charges were made with regard to the payment of those salaries?

[fol. 169] A. Well, this seems to end in August of '59.

Q. August of 1959?

A. Yes, sir, that is correct.

Q. Now, sir, do you have with you any of the exhibits that were filed in the In re Beck case that you tried, and I particularly call your attention to the breakdown sheet of settlement in a case known as the Frye case, and also another known as the Bauer case.

A. Yes, I have those and many others.

Q. Would you file, please, sir, the settlement sheet in the Frye case as an exhibit, Nelson I?

The Court: Exhibit Nelson I is identified and filed.

(Plaintiff's Nelson Exhibit No. I, a breakdown sheet, was marked and received in evidence.)

By Mr. Bowles, Jr.:

Q. Now, do you have another one referred to as the Bauer case?

A. Yes, I do.

Q. Would you file that, please, as Nelson Exhibit J?

A. Yes, I do have it. I didn't have the contract attached, but I don't think you need that.

Q. Is this part of the exhibit?

[fol. 170] A. Well, this was the contract, but it could be attached. It is a contract with the firm.

Q. Which one, Mr. Nelson?

A. With "J"?

Q. With "J," that is the Bauer case.

A. Bauer.

Mr. Stallard: This is Frye.

A. (Continuing) Oh, wait a minute. Was Frye the last one I gave you? Then I got them reversed when you asked me about them, I guess.

Mr. Bowles, Jr.: Exhibit I is Bauer, and Exhibit J is Frye.

The Court: I have Exhibit I as Bauer.

Mr. Bowles, Jr.: I am sorry, I got the names backwards.

The Witness: I picked up the wrong one when you asked me.

Mr. Bowles, Jr.: Is that Exhibit J?

The Witness: Yes, that is Frye then.

By Mr. Bowles, Jr.:

Q. Did you put the contract in there?

A. No, I didn't have the contract.

The Court: Nelson Exhibit J, concerning Frye, identified and filed.

[fol. 171] (Plaintiff's Nelson Exhibit No. J, a contract, was marked and received in evidence.)

By Mr. Bowles, Jr.:

Q. Mr. Nelson, tell us, please, sir, what is a "bird dog"?

A. Well, a "bird dog," we learned, was the term used for a local lodge member who aided in procuring a contract from an injured railroad employee.

Q. Are any bird dogs on Exhibit I and J?

A. Yes, I believe there are on both of those exhibits.

Q. What were their names?

A. May I look at those?

Q. Let's look at the Bauer one first, who were the bird dogs in the Bauer case?

Mr. Stallard: If Your Honor please, I would like for the witness to show how he learned that expression, and see if it is binding on my client; it may not be.

By Mr. Bowles, Jr.:

Q. Have you got the exhibit of the testimony taken in this case with you?

A. Yes, I do.

[fol. 172] Q. Would you file that as an exhibit with your testimony, please, to show where you got the word "bird dog"?

A. I would have two exhibits that would show that; one is the testimony of Mr. Verbon, and the other is a deposition taken of one Marjorie Matson, who was the secretary in the office of the law firm at Cleveland.

Q. Would you file the deposition of Mr. Verbon as Exhibit K, and the deposition of Miss Matson as Exhibit L?

A. Well, Mr. Verbon's testimony is not a deposition; it was direct testimony taken before the referee.

The Court: Transcript of that testimony?

A. (Continuing) And this is the deposition of Miss Matson.

The Court: I didn't catch the name of the first one, the testimony of who?

A. (Continuing) Verbon, V-e-r-b-o-n, I believe it is on the front there.

By Mr. Bowles, Jr.:

Q. K is the Verbon; L is the Matson?

A. Yes, Marjorie Matson, M-a-t-s-o-n.

The Court: Nelson Exhibit K identified and filed.

(Plaintiff's Nelson Exhibit No. K, testimony of Mr. [fol. 173] Verbon, was marked and received in evidence.)

The Court: Nelson Exhibit L, filed and identified.

(Plaintiff's Nelson Exhibit No. L, deposition of Marjorie Matson, was marked and received in evidence.)

By Mr. Bowles, Jr.:

Q. Now, Mr. Nelson, do you have with you also the exhibits that were introduced with Mr. Verbon's testimony?

A. I do.

Q. Would you file those, please?

Mr. Stallard: May I see them?

The Court: Nelson Exhibit M is identified and filed.

(Plaintiff's Nelson Exhibit No. M, consisting of exhibits, was marked and received in evidence.)

By Mr. Bowles, Jr.:

Q. For the record, briefly, sir, would you look at Exhibit J, and tell us what was Mr. Clinkenbeard's commission in the Frye case for obtaining that case?

A. Mr. Clinkenbeard?

[fol. 174] Q. Clinkenbeard.

A. His commission was \$3076.67.

Q. Would you read the names of the bird dogs on there?

A. Mr. F. A. Arnold.

Q. How much did he get?

A. \$1,500.

Q. Who are the other two bird dogs?

A. William B. Beasley, who received \$100 and Walter Harder received \$100.

Q. If Your Honor please, the purpose of introducing this exhibit is to show to Your Honor that these are the friendly persons who carried their member to the lawyer for the sake of the member, only in order to be paid \$1,500 themselves. That is Tom, Dick, and Harry, sir, that we were talking about the other day.

Now, would you look at the Exhibit I, the Bauer Exhibit, and tell us who were the bird dogs on that exhibit, and how much they were paid?

Mr. Stallard: If Your Honor please, I object to that, because this exhibit does not show anything like that; that is a reference that the counsel is putting on there, these men's names are on there, but I don't know what they are. [fol. 175] Mr. Bowles, Jr.: Your Honor, it is all testified to in that exhibit; that is the reason I am asking.

Mr. Stallard: It is not tied up with this exhibit.

Mr. Bowles, Jr.: Yes, sir.

Mr. Stallard: Well, read it.

Mr. Bowles, Jr.: That is what I am asking the man who tried the case, to read it.

Mr. Stallard: There is a man, Frank Arnold, \$1500. I don't know who he is.

A. He was a defendant in our case. He was an officer of a local lodge.

By Mr. Bowles, Jr.:

Q. Was he charged with receiving that money and participating in this thing?

A. Let me see. Yes, this Frye case was one of the counts in our complaint. I am quite sure. Leo E. Frye was count No. 19 in our complaint, yes, he was. I might say, he was not charged with the specific amount.

Mr. Stallard: No, Your Honor please—

A. (Continuing) He was charged with receiving compensation for bird-dogging.

Mr. Stallard: This is F. A. Arnold, \$1500. This says F. A. Arnold. I want to know who F. A. Arnold is.

[fol. 176] A. Oh, F. A. Arnold is also a defendant, yes.

Mr. Stallard: F. A. Arnold?

A. I was looking at Klein here, they were both defendants.

By Mr. Bowles, Jr.:

Q. Now, this Exhibit I is the Bauer case, I believe, is it not?

A. Yes.

Q. And now, tell me the same information shown there; what was the commission paid to Mr. Clinkenbeard in that case?

A. Mr. Clinkenbeard's commission was \$2,662.52.

Q. Then how much did the bird dogs get?

A. There was only one bird dog, D. G. Klein, who was a defendant in our case, an officer of the lodge. He received \$1,000.

Q. He got a thousand dollars for taking his friend to see the regional counsel?

A. Yes.

The Court: May I have, off the record, or put it on the record, if you want to, I would rather ask it off the record.

Mr. Bowles, Jr.: That is all right.

[fol. 177] The Court: Off the record.

• (Discussion off record.)

Mr. Bowles, Jr.: Would you have any objection, sir, to having him explain that, what is in there, on the record—what he has just told to you?

The Court: He says it is in the deposition.

Mr. Bowles, Jr.: Yes, it is.

The Court: Do you object to him putting that on the record, Mr. Stallard?

Mr. Stallard: No, I do not.

The Court: Ask him the question then, on the record.

By Mr. Bowles, Jr.:

Q. Mr. Nelson, would you explain exactly the operation of the so-called "bird dog" that is explained in the testimony in this, in re Beck case, shown in the exhibits that have been filed; just briefly summarize it for the benefit of the Court.

A. Yes, if I could refer to the deposition of Mrs. Matson, I think I could do it better. Well, here, I was asking her, and by the way, she would say she had worked for several years as a secretary of the office of the law firm, and now asking her about how the leads were given to the regional investigators, I asked this question:

"Q. You stated that they were given leads; how were [fol. 178] these leads given to the regional investigators?"

"A. They came in various ways where a large accident had occurred, I mean it was knowledge, they quite often went to the scene.

"Q. Now, would you define a bird dog?"

"A. Well, bird dogs were men that were, shall we say, responsible in a way to the investigators, only as far as letting him know when there had been any injury or any accident. They would be possibly part of a crew or something on this particular accident, but they would have firsthand and immediate notice, and they would notify the

investigator where they were working and who they were working for, and of course, the investigator would move on out."

And then later on, in this deposition, she says—

Q. Would you indicate the page, please, sir?

A. I was reading from page 13 of the Exhibit L. Now, on page 31, underneath this talking about the records,

"A. Underneath the name of the investigator that was credited was usually the name of the man, if a bird dog had been used, his name would appear, and of course if not, it was assumed that the investigator had signed the case.

[fol. 179] Q. Would there be anything after this same name or next to the name of the bird dog to indicate who he was?

"A. They used the letter on the sheets quite often, 'BD' for bird dog. The words 'bird dog' never actually appeared, but the letters were there."

Mr. Verbon also testified to the bird dogs, and the fact that frequently when he would call, he was regional investigator, he would call out there, and he couldn't find out an individual, then he would go and find out who their friends were, and get them maybe to go along and maybe send them out there independently to try to persuade them to employ the regional counsel. It would take me some time to try to identify the particular testimony here, but that is the substance of it.

The Court: The use of a friend like that, he would become, as you call it, a "bird dog," and he would be paid eventually after the recovery?

A. Yes, and they apparently had no fixed amount that they paid them. It depended generally upon the amount of the settlement, ranging from \$50, \$100, \$200, or \$300, and up to as high as we have this one, of \$1,500. That was a big case, of course.

[fol. 180] By Mr. Bowles, Jr.:

Q. Do you happen to know what the settlement was in those two cases?

A. I believe in the Frye case it was \$175,000. The total settlement is shown on the exhibit.

The Court: Yes, it is shown.

Mr. Bowles, Jr.: Witness is with you.

Cross examination.

By Mr. Stallard:

Q. Mr. Nelson, when did Mr. Verbon testify in the case we have just been citing here?

A. I would have to refer to the exhibit.

The Court: That transcript.

A. (Continuing) Here, he testified commencing on June 16, 1958.

By Mr. Stallard:

Q. Well, did you know when he testified in June, 1958, that he had been fired by the Railroad Brotherhood as an investigator?

A. I knew he was not employed by them as an investigator.

Q. Will you refer to Exhibit D. I direct you to the year 1956 at the top of the page, but it is carried on to 11-1-57, [fol. 181] and ask you to read what it says with reference to Verbon.

A. It says 11-1-57 "Verbon taken off payroll."

Q. Do you know—did he tell you why he was taken off the payroll?

A. Yes, I think that was at the time that they were—they split up the firms, and he was originally hired by Rerat and worked for Rerat and that firm, and then when the split-up came, why he went with Davis & Lush.

Q. Well, did he tell you that he was fired by the Railroad Brotherhood in 1957?

A. No, I knew he wasn't working there. I think when he first went to work here as an investigator, he was not a member of the Brotherhood, and it wasn't until way later, and I thought that was shown by some of these records,

December, I believe it was December of 1956, when he was put on the payroll. Prior to that his commissions were just paid direct by the law firm, but then he was put on the payroll for the Brotherhood and given a card, although he was not a Brotherhood employee, in order that he could also get the benefits of the railroad retirement and the other.

Q. Then you knew that he was fired by the Brotherhood for an incident out in Montana in 1957, didn't you?

A. Oh, yes, I knew he was. I didn't know whether he was [fol. 182] fired or not; I knew he was arrested because of this ambulance chasing he was doing.

Q. Well, didn't President Kennedy testify on June 1, 1961 in Cleveland that he fired by telegram Verbon when he was arrested out there in Montana in 1957?

A. Yes, I believe Verbon testified to that in the record.

Q. He testified that he was no longer a friend of the Railroad Brotherhood's, didn't he?

A. He may have said that, I don't recall that; he was very unfriendly to Rerat.

Q. Wasn't he unfriendly, and that is the reason he used the word "bird dog," wasn't he very unfriendly to the Railroad Brotherhood when he testified here in 1958?

A. Oh, I don't think so. In fact, that is brought out by many records that we have as Mrs. Matson said, they used the initials B.D. and many of the records we procured showed the B. D. It didn't on these particular ones.

Q. Well, now, do you know where Verbon is now?

A. No, I do not.

Mr. Stallard: That is all.

The Court: Any further questions?

[fol. 183] Redirect examination.

By Mr. Bowles, Jr.:

Q. Mr. Nelson, do you have any other records here that have any bearing upon any of the things that Mr. Stallard asked you?

A. Oh, I don't know. I have got another brief case full

of records, but I don't know whether they would add anything or merely encumber the record.

Q. Well, what is the status of the in re Beck case, is that closed?

A. Oh, yes.

Q. That is finished and over?

A. I have got here, for example, considerable correspondence with reference to particular accounts we had correspondence taken from the Brotherhood's files. I don't know whether they are helpful or not.

Q. I would not think so. We don't want to clutter up this record with the trial of your case except insofar as it relates to the same, and so forth.

A. There was only—

Q. Thank you, sir, that is all.

A. There was only this one, if this would have any beneficial help, a fellow, secretary and treasurer of the lodge, and was injured and after considerable correspondence, [fol. 184] trying to get him to employ regional counsel, he settled his own case. I don't know whether that would help any.

Q. Well, put that one in, sir, as an exhibit.

Mr. Stallard: Well, Your Honor, please, I think the record is going to be encumbered, because there is no specific purpose for introducing all of this.

Mr. Bowles, Jr.: Well, we won't offer it then.

Mr. Stallard: I would like to ask one more question.

Mr. Bowles, Jr.: Do you have any objection to it?

Mr. Stallard: Yes, I do have an objection.

Mr. Bowles, Jr.: Well, we won't offer it.

Mr. Stallard: I would like to ask one more question of the witness, Your Honor.

The Court: Yes, sir.

Recross examination.

By Mr. Stallard:

Q. You testified, Mr. Nelson, that a friend of the injured man, may not be an officer of the railroad when he suggests employment to counsel?

A. An officer of the local lodge.

[fol. 185] Q. Local lodge?

A. Yes.

Q. In other words, he might be any friend, the bird dog might be any friend?

A. Yes.

Q. Wouldn't have any connection with the Brotherhood, whatsoever?

A. I suppose as a general rule, they did, but no, it wouldn't be necessary.

Q. That is an assumption, isn't it?

A. What?

Q. You said that.

A. Well, yes, I know I have talked to, of course, many of them, and they were generally employed; maybe not members of the Brotherhood, but members of other crafts.

Q. Well, as I understand it, the lawyer here paid somebody for assisting in getting the case to his office, and he might not even be a member of the Railroad Brotherhood, the defendant in this case?

A. Oh, yes, that was true.

Mr. Stallard: That is all.

Mr. Bowles, Jr.: That is all.

The Court: Mr. Nelson, are you planning to remain for the rest of the case, or do you wish to be excused?

[fol. 186] The Witness: I can get a plane out of here at 2:50, Your Honor, if I am not needed. I would appreciate being able to get out, and I can get to Omaha this evening, if I can catch this 2:50 plane.

Mr. Bowles, Jr.: That is agreeable with us.

Mr. Stallard: Agreeable with me, Your Honor.

The Witness: If it would help anything, I will stay. If I should be needed, I will stay, but I would like to leave.

The Court: Both counsel said they don't think they need you any further.

(Witness excused.)

The Court: I will want a recess at this time. I will ask counsel and Mr. Nelson to come into chambers.

(Recess)

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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1962

No. 34

**BROTHERHOOD OF RAILROAD TRAINMEN,
PETITIONER,**

vs.

VIRGINIA, EX REL. VIRGINIA STATE BAR.

**ON WRIT OF CERTIORARI TO THE SUPREME COURT OF APPEALS
OF THE COMMONWEALTH OF VIRGINIA**

**PETITION FOR CERTIORARI FILED NOVEMBER 9, 1962
CERTIORARI GRANTED FEBRUARY 12, 1963**

SUPREME COURT OF THE UNITED STATES

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PLAINTIFF'S EXHIBITS—Continued

77—Continued

Plaintiff's Exhibit 3 to deposition—Answers
to Interrogatories by W. P. Kennedy,
President of the Brotherhood of Railroad
Trainmen dated May 7, 1957 in the case
of Henry Opendack v. Tom Davis et al.
in the Superior Court of the State of
Washington, County of Spokane, (ex-
cerpts)

860 978

78—Deposition of C. R. Maher in the case of
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brand, et al. in the Superior Court of Cali-
fornia in and for the County of Los Angeles,
No. 727 273 (excerpts)

865 981

Plaintiff's Exhibit PX12 to deposition—Let-
ter from C. R. Maher to Edward T. Hays,
dated January 24, 1956

920 1003

79—Complaint filed in the Circuit Court of
Jefferson County, Alabama, in the case of
Burnett v. Southern Railway Company

924 1008

80—Complaint and order of dismissal by the
Circuit Court, Tenth Judicial Circuit of
Alabama in the case of Shoaf v. Southern
Railway Company

927 1013

81—Complaint filed in the United States Dis-
trict Court, Eastern District of Virginia in
the case of Shoaf v. Southern Railway Com-
pany

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82—List of Changes in Legal Counsel Since
October, 1949

939 1023

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1963

No. 34

**BROTHERHOOD OF RAILROAD TRAINMEN,
PETITIONER,**

vs.

VIRGINIA, EX REL. VIRGINIA STATE BAR.

**ON WRIT OF CERTIORARI TO THE SUPREME COURT OF APPEALS
OF THE COMMONWEALTH OF VIRGINIA**

VOLUME II

INTRODUCTION OF PLAINTIFF'S EXHIBITS 32 THRU 66
WITH COMMENTS OF BOTH PARTIES

Mr. Bowles, Jr.: Your Honor, we have about forty minutes, and if we may resume the introduction of some of these documents—

[fol. 187] The Court: Yes, sir, the last exhibit filed was 31.

Mr. Bowles, III: That is correct. If Your Honor please, I would like to introduce as our next exhibit, a letter of January 18, 1937 from a man named A. E. Schwing to the Journal Department, and E. L. Harrigan, requesting that Mr. Bernard M. Savage be listed in all future publications as a regional counsel in Baltimore. This was heretofore filed as part of Exhibit 3 in response to the first call, and I would like this marked as Exhibit 32, if Your Honor please.

The Court: Plaintiff's Exhibit 32 identified and filed.

(Plaintiff's Exhibit No. 32, a letter, was marked and received in evidence.)

Mr. Bowles, III: I would like next to put in the letter of January 19, 1937 to Mr. Savage from E. L. Harrigan, appointing him as regional counsel. This was heretofore filed as part of Exhibit 3 in the first call, and it consists of 2 pages. This would be 33, Your Honor.

The Court: Plaintiff Exhibit 33 is identified and filed.

[fol. 188] (Plaintiff's Exhibit No. 33, a letter, was marked and received in evidence.)

Mr. Bowles, III: I would like next to file a letter of February 6, 1937 to Mr. Harrigan from Mr. Savage accepting the appointment, and it was heretofore part of Exhibit 3 in response to the first call. I would like that marked No. 34.

The Court: Plaintiff's Exhibit No. 34 is identified and filed.

(Plaintiff's Exhibit No. 34, a letter, was marked and received in evidence.)

The Court: Mr. Savage is a party to this proceeding, but not before the Court; is that correct?

Mr. Bowles, III: That is correct.

The Court: Equivalent to order of publication.

Mr. Bowles, III: That is correct.

Mr. Bowles, Jr.: That is correct.

Mr. Bowles, III: Now, for what it is worth, Your Honor, Exhibit 32 dated January 18, notifying the Journal Department to publish Savage's appointment as regional counsel quite a bit antedates the letter of February 6, in which Savage says he will do it. As our next exhibit, I would like [fol. 189] to introduce a copy of the rules and regulations signed by Mr. Savage and returned to E. L. Harrigan in the letter just introduced as Exhibit 34, accepting the appointment, and this was heretofore filed as part of Exhibit 3-B, and this consists of the original as well as a photostat attached to it. This was filed as 3-B in response to the second further call, and perhaps in the original, will mark 35 and the photostat mark 35-A.

The Court: Can't they go together?

Mr. Bowles, III: Or they can go together.

The Court: Plaintiff's Exhibit 35 is identified and filed.

(Plaintiff's Exhibit No. 35, a copy of Rules and Regulations, was marked and filed in evidence.)

Mr. Bowles, III: I would like to introduce next a letter of October 12, 1949 to B. M. Savage from W. P. Kennedy, terminating Savage as regional counsel, and this was heretofore filed in response to the first call, as Exhibit 3, and as Exhibit 5 in response to the request for further particulars. I would like that marked Exhibit 36, Your Honor.

The Court: Plaintiff Exhibit 36 identified and filed.

[fol. 190] (Plaintiff's Exhibit No. 36, a letter, was marked and received in evidence.)

Mr. Bowles, III: The next exhibit is a letter of October 12, 1949 to Savage from Kennedy reappointing him regional counsel with the same territory. This was heretofore filed as part of Exhibit 3 in response to the first call for production of documents, and as Exhibit 5 in response to the request for further particulars, and I would like that marked Exhibit 37, Your Honor.

The Court: Plaintiff Exhibit 37 is identified and filed.

(Plaintiff's Exhibit No. 37, a letter, was marked and received in evidence.)

Mr. Bowles, III: The following exhibits, Your Honor, Exhibit 38 through 66-D, which have to do with correspondence between the Brotherhood and some of its members, and the Brotherhood and Savage, will take quite sometime. These are the 134 letters that were referred to before. It will take quite sometime to mark these. Now I have taken the liberty of marking them beforehand with the hope of saving the Court some time.

The Court: Marking them, you mean?

[fol. 191] Mr. Bowles, III: I have written the exhibit number on each one, and I have grouped them as to the particular injured individual that they referred to, and they are in chronological order.

The Court: And running from what number to what number?

Mr. Bowles, III: From Exhibit 38 to Exhibit 66-D.

Mr. Bowles, Jr.: Your Honor, I might explain a little further about that. He has got in his book here the case, for example, the Bille Lee Arnold, consisting of four exhibits marked 38, 38-A, -B, and -C, and they are all 38.

Another case, Lewis M. Bailey is 39, -A, -B, -C.

The Court: I wonder if we can do away with all of those letters, and all of those papers together under one number?

Mr. Bowles, Jr.: I wouldn't think that they would be easy to reach unless we put them in those successive numbers. If Your Honor would do that, I think it would conform, make it much easier to get to the particular exhibit; otherwise, we would have to be thumbing through them, and the individual letter would not be identified. Now, he has marked it according to that scheme, all set and ready.

The Court: Very well, hand them to me, and we will [fol. 192] cooperate. Have you got anything to say?

Mr. Stallard: No, Your Honor, if you just mark them and put them in one big envelope, I think you could run them from one to whatever it is.

Mr. Bowles, Jr.: Well, in referring to them, we would like to be in a position to say, "If you would look at Exhibit 38-B," for example.

The Court: Let me have those, please.

Mr. Bowles, Jr.: Here, sir, you will see that is the system we have adopted that would make it plain.

The Court: Now, you have got these things—you have added to my difficulty by clipping 38-A, 38-B, 38-C, you have clipped them together. Why can't I put one tab on them?

Mr. Bowles, Jr.: As 38, I would say.

The Court: 38-A, -B, -C, -D, -E.

Mr. Bowles, Jr.: That is exactly so. One tab is 38, -A, -B, -C, and -D.

Mr. Stallard: That is all right.

Mr. Bowles, III: These photostats are photostats, that were produced by Mr. Stallard's client—

Mr. Stallard: Yes, we gave him those. We have copies.

Mr. Bowles, III: Now, if you would prefer during the [fol. 193] luncheon recess, I can take the ones that were, actually filed, which are clearer to read, and assemble them in the same order for you.

The Court: These are all right, to me.

Mr. Bowles, III: I have underlined some portions in there for my own use.

The Court: Do you object to the underlining?

Mr. Stallard: No.

Mr. Bowles, Jr.: Those are all copies, and we thought it was quicker.

The Court: Let me see, Miss Morton has put this Plaintiff Exhibit No. 38, -A, -B, -C, -D.

Mr. Bowles, Jr.: That is exactly what we had in mind.

The Court: There are five altogether, or ought to be. Mrs. Cessna, Plaintiff's Exhibit 38 and 38-A, -B, -C, are identified and filed.

(Plaintiff's Exhibit Nos. 38, 38-A, 38-B, 38-C, being letters, were marked and received in evidence.)

The Court: The next one will be Exhibit 39 and Exhibit 39-A, -B, and -C, and they are so identified, and filed.

[fol. 194] (Plaintiff's Exhibit Nos. 39, 39-A, 39-B, and 39-C, being letters, were marked and received in evidence.)

The Court: The next is 40, and 40-A, -B, and -C now identified and filed.

(Plaintiff's Exhibit Nos. 40, 40-A, 40-B, and 40-C, being letters, were marked and received in evidence.)

The Court: Now, Mr. Bowles, you can help us to this extent, if you come up here and help Miss Morton. Exhibit 41, 41-A, -B, -C, and -D, identified and filed.

(Plaintiff's Exhibit Nos. 41, 41-A, 41-B, 41-C, 41-D, being letters, were marked and received in evidence.)

The Court: Exhibit 42 and 42-A, -B, -C, and -D, are identified and filed.

(Plaintiff's Exhibit Nos. 42, 42-A, 42-B, 42-C, and 42-D, being letters, were marked and received in evidence.)

The Court: Plaintiff's Exhibits 43 and 43-A, -B, and -C, [fol. 195] identified and filed.

(Plaintiff's Exhibit Nos. 43, 43-A, 43-B, and 43-C, being letters, were marked and received in evidence.)

The Court: Plaintiff's Exhibit No. 44, and 44-A, -B, -C, and -D, identified and filed.

(Plaintiff's Exhibit Nos. 44, 44-A, 44-B, 44-C, and 44-D, being letters, were marked and received in evidence.)

The Court: Plaintiff's Exhibits 45, and 45-A, -B, and -C, identified and filed.

(Plaintiff's Exhibit Nos. 45, 45-A, 45-B, and 45-C, being letters, were marked and received in evidence.)

The Court: Would counsel like for me to excuse them now, and recess until 2:15, and I will continue and do this? I can finish this by lunch hour, and it will give you a little more time before the recess.

Mr. Bowles, Jr.: Well, if you finish before one, we can put in a few more exhibits, if you want to do that, sir.
[fol. 196] The Court: If I finish before one?

Mr. Bowles, III: I have got them assembled up through 74.

The Court: Well, you are coming back this afternoon?
Mr. Bowles, III: Oh, yes.

The Court: Well, let's do it then. You don't have to leave. I was just saying that I could do this without counsel. Exhibit 46, 46-A, -B, and -C, identified and filed.

(Plaintiff's Exhibit Nos. 46, 46-A, 46-B, and 46-C, being letters, were marked and received in evidence.)

The Court: Plaintiff's Exhibit 47, 47-A, -B, and -C, identified and filed.

(Plaintiff's Exhibit Nos. 47, 47-A, 47-B, and 47-C, being letters, were marked and received in evidence.)

The Court: Court will resume its session at 2:15.

(Counsel leave the courtroom.)

[fol. 197] The Court: Plaintiff's Exhibit 48, and 48-A and -B, identified and filed.

(Plaintiff's Exhibit Nos. 48, 48-A, and 48-B, being letters, were marked and received in evidence.)

The Court: Plaintiff's Exhibit No. 49, -A, -B, -C, and -D, identified and filed.

(Plaintiff's Exhibit Nos. 49, 49-A, 49-B, 49-C, and 49-D, being letters, were marked and received in evidence.)

The Court: Plaintiff's Exhibit 50 and 50-A, -B, -C, -D, and -E, identified and filed.

(Plaintiff's Exhibit Nos. 50, 50-A, 50-B, 50-C, 50-D, and 50-E, being letters, were marked and received in evidence.)

The Court: Plaintiff's Exhibit 51, and 51-A, -B, and -C, identified and filed.

(Plaintiff's Exhibit Nos. 51, 51-A, 51-B, and 51-C, being letters, were marked and received in evidence.)

[fol. 198] The Court: Plaintiff Exhibit 52, and 52-A, and -B, identified and filed.

(Plaintiff's Exhibit Nos. 52, 52-A, and 52-B, being letters, were marked and received in evidence.)

The Court: Plaintiff's Exhibit 53, and 53-A, -B, -C, -D, identified and filed.

(Plaintiff's Exhibit Nos. 53, 53-A, 53-B, 53-C, and 53-D, being letters, were marked and received in evidence.)

The Court: Plaintiff Exhibit 54, and 54-A, -B, and -C, identified and filed.

(Plaintiff's Exhibit Nos. 54, 54-A, 54-B, and 54-C, being letters, were marked and received in evidence.)

The Court: Plaintiff Exhibit 55, and 55-A, -B, and -C, identified and filed in evidence.

(Plaintiff's Exhibit Nos. 55, 55-A, 55-B, and 55-C, being letters, were marked and received in evidence.)

[fol. 199] The Court: Plaintiff Exhibit 56, and 56-A, -B, -C, -D, -E, -F, -G, -H, -I, and -J, identified and filed in evidence.

(Plaintiff's Exhibit Nos. 56, 56-A, 56-B, 56-C, 56-D, 56-E, 56-F, 56-G, 56-H, 57-I, and 56-J, being letters, were marked and received in evidence.)

The Court: Plaintiff Exhibit No. 57, and 57-A, were identified and filed.

(Plaintiff's Exhibit Nos. 57 and 57-A, being letters, were marked and received in evidence.)

The Court: Plaintiff Exhibit No. 58 and 58-A, were identified and filed.

(Plaintiff's Exhibit Nos. 58 and 58-A, being letters, were marked and received in evidence.)

The Court: Plaintiff Exhibits 59 and 59-A, 59-B, 59-C, 59-D, 59-E, and 59-F, identified and filed in evidence.

(Plaintiff's Exhibit Nos. 59, 59-A, 59-B, 59-C, 59-D, 59-E, and 59-F, being letters, were marked and received in evidence.)

[fol. 200] The Court: Plaintiff Exhibit 60, and 60-A, -B, -C, and -D, identified and filed.

(Plaintiff's Exhibit Nos. 60, 60-A, 60-B, 60-C, and 60-D, being letters, were marked and received in evidence.)

The Court: Plaintiff's Exhibit 61 and 61-A, -B, -C, -D, identified and filed.

Plaintiff's Exhibit Nos. 61, 61-A, 61-B, 61-C, and 61-D, being letters, were marked and received in evidence.)

The Court: Plaintiff's Exhibit 62, and 62-A, -B, and -C, identified and filed.

(Plaintiff's Exhibit Nos. 62, 62-A, 62-B, and 62-C, being letters, were marked and received in evidence.)

The Court: Plaintiff Exhibit No. 63, and 63-A, 63-B, 63-C, -D, -E, identified and filed.

(Plaintiff's Exhibit Nos. 63, 63-A, 63-B, 63-C, 63-D, 63-E, being letters, were marked and received in evidence.)

[fol. 201] The Court: Plaintiff Exhibit 64, and 64-A, -B, -C, and -D, identified and filed.

(Plaintiff's Exhibit Nos. 64, 64-A, 64-B, 64-C, and 64-D, were marked and received in evidence.)

The Court: Plaintiff Exhibit 65 and 65-A, -B, -C, -D, -E, -F, and -G, identified and filed.

(Plaintiff's Exhibit Nos. 65, 65-A, 65-B, 65-C, 65-D, 65-E, 65-F, and 65-G, being letters, were marked and received in evidence.)

The Court: Plaintiff Exhibit 66, and 66-A, 66-B, 66-C, and 66-D, identified and filed.

(Plaintiff's Exhibit Nos. 66, 66-A, 66-B, 66-C, 66-D, being letters, were marked and received in evidence.)

The Court: Court will recess.

(Thereupon, a recess was taken for lunch until 2:15 p.m.)

[fol. 202] Afternoon Session

(Met pursuant to noon recess at 2:15 p.m.)

Mr. Bowles, Jr.: If Your Honor please, may we have the bailiff call Mrs. Wills.

The Court: All except Mrs. Wills be seated, please. Mrs. Wills, will you come forward?

MRS. NEAL WILLS was duly sworn, and testified in behalf of the plaintiff, as follows:

Direct examination.

By Mr. Bowles, Jr.:

Q. Mrs. Wills, will you state your full name, age, and residence, please, and your age, if you don't mind?

A. I am Mrs. Neal Wills. I live at Canton, Georgia, Route 2. I am forty-seven years old.

Q. Now, Mrs. Wills, what is your first name?

A. Estelle.

Q. How do you spell that?

Mr. Stallard: I didn't get her address.

The Witness: Canton, Route 2.

[fol. 203]

By Mr. Bowles, Jr.:

Q. What is your first name?

A. Estelle.

Q. E-s-t-e-l-l-e?

A. Yes.

Q. Now, Mrs. Wills, how far do you live from Cedar Town, Georgia?

A. About 60 miles.

Q. About how much?

A. Sixty.

Q. Sixty miles?

A. Yes, sir.

Q. Did you have a son-in-law, Jimmie Doyle Queen?

A. Yes, sir.

Q. Whom did he marry?

A. My daughter, Betty Ann.

Q. Betty Ann?

A. Yes, sir.

Q. Could you tell us whether or not your son-in-law was killed?

A. Yes, sir.

Q. On what date?

A. June 24, 1959.

Q. Now, on that day, would you also tell us whether or [fol: 204] not your daughter, his wife, was about to go to the hospital?

A. Yes, sir.

Q. For what reason?

A. For the birth of their son.

Q. Did she go to the hospital shortly after his death?

A. Yes, sir, she was carried to the hospital on the 26th, following the day after he was buried.

Q. When did she return from the hospital?

A. On July 1.

Q. Mrs. Wills, tell me please, ma'am, at the time that your daughter's husband was killed, where were you living?

A. I was living at that time on Route 1, Cedar Town.

Q. Now, how far is that from Cedar Town?

A. About 9 miles.

Q. Now, where was your son-in-law and daughter living?

A. They was living in Cedar Town at that time.

Q. Now, was anybody living with them?

A. Yes, my son and his wife.

Q. That would mean that your son and his sister and his wife and her husband were all living in the same house? [fol: 205] A. That's right.

Q. Now, when your daughter, Betty Ann's husband was killed, what did they do; where did they live?

A. Where did Betty Ann and her husband live?

Q. Your son and your other daughter, what did they do when the widow went to the hospital to have the baby; what did the others in that household do?

A. Well, they went with us; took care of her after hospital.

Q. Did they move over to your house?

A. Yes, sir, they moved in the house with me.

Q. Well, now, when she came back from the hospital on July 1, 1959, were all of them living in the house there with you?

A. Yes, sir.

Q. Now, can you tell me, please, ma'am, did you know an attorney from Atlanta, Georgia, named Tod Lewis, Jr.?

A. I never knew him.

Q. Can you tell me whether you ever saw him or not, or after the death of your son-in-law?

Mr. Stallard: Now, Your Honor please, I want to object to this testimony. It has nothing to do with the case at bar. It is something that happened in the State of Georgia. It would not be binding at all here in Virginia.

[fol. 206] The Court: It might go to the question of reasonable apprehension.

Mr. Bowles, Jr.: That is the purpose for which it is offered, sir.

The Court: The objection will therefore be overruled.

Mr. Stallard: Exception for the reasons stated.

By Mr. Bowles, Jr.:

Q. Could you tell us whether you ever saw Mr. Tom Lewis, Jr., after your son-in-law was killed?

A. Yes, sir, he came to our house the next day after my daughter was brought home from the hospital.

Q. Would you tell us, please, how he introduced himself, and what he said?

A. Well, he came in, and he said that he was Mr. Thomas Lewis, Jr., from Atlanta. He was a lawyer, and he had heard about the accident, and he wanted to come down and see if he could take the case for Betty.

Q. Did he tell you whether or not he was connected with the Brotherhood of Railroad Trainmen in any way?

Mr. Stallard: Now, Your Honor please, counsel is leading the witness, just suggesting the answer.

[fol. 207] The Court: Yes, that is true. That is true but what we are getting at, after all, are the facts. Are the facts obtainable, Mr. Beecher? You have the record.

Mr. Stallard: Well, I don't know, but just to lead the witness, ask him, "Did he tell you so-and-so," it is certainly hearsay.

The Court: No, we don't want that. Well, change your form of question, Mr. Bowles.

Mr. Bowles, Jr.: Your Honor, that I am directing her attention to a particular fact is perfectly true, but—

The Court: I think the question is leading in form.

Mr. Stallard: I wish to object on the further ground that anything he said would be hearsay.

Mr. Bowles, Jr.: I expect at the appropriate time, sir, to put into evidence the directory of the Brotherhood of Railroad Trainmen that was in effect as of the time that we are now speaking, and show that Mr. Thomas Lewis, Sr., and Mr. Tom Lewis, Jr., were both regional counsel for the Brotherhood of Railroad Trainmen, and are still, right [fol. 208] now, today, according to the latest directory which, at my request, was furnished to me by Mr. C. R. Maher, the chief clerk of the Legal Aid Department, by letter, which I have here in my bag, sir.

The Court: That is enough, Mr. Bowles. With that explanation, on this point of hearsay which is representing himself to be connected with the Brotherhood in the position of regional counsel, I suppose the objection to any hearsay there—it is the ultimate fact, that is important, and if it is going to be connected up,—objection will be overruled.

Mr. Stallard: Exception.

By Mr. Bowles, Jr.:

Q. Mrs. Wills, would you state to us what he said, if anything, as to who he was speaking for besides himself?

A. I don't hardly know how to answer that. What you mean by it, I mean?

Q. You say he told you he was a lawyer?

A. Yes.

Q. Did he tell you what kind of a lawyer he was?

A. Well, he said he was just a lawyer from Atlanta, and came down, you know, to want to try to get Betty to go to [fol. 209] Atlanta or him handle her case for her, or settle.

Q. I will ask you this, Mrs. Wills: What organizations, if any, connected with the railroad, did your son-in-law belong?

A. He was a trainman.

Q. On what railroad?

A. The Central of Georgia Railroad.

Q. Did he belong to the union, the Brotherhood?

A. Yes.

Mr. Stallard: Your Honor please, he may belong to a whole lot of brotherhoods. I would like to know definitely whether he belonged to the defendant.

Mr. Bowles, Jr.: May I ask her what brotherhood he belonged to?

The Court: What brotherhood?

By Mr. Bowles, Jr.:

Q. What brotherhood did he belong to?

A. Well, I really don't know. I don't know that much about it.

Q. He was a trainman, you say?

A. Yes.

Q. Now, just go ahead and tell us, please, ma'am, what Mr. Lewis said to your daughter. Were you present while he was talking to your daughter?

[fol. 210] A. Yes, I was there.

Q. How long did he stay there?

A. About an hour.

Q. Did he show any papers or anything of that sort?

A. Yes, he brought lots of papers and was showing them to her, and wanting her to sign some papers, but she didn't sign them.

Q. Well, now, just go ahead and tell His Honor as much as you can remember about the situation, as it prevailed there, and what Mr. Lewis said, and what he said as to who he was and whom he represented, and just that whole situation.

A. Well, when he came in, he said that he was a lawyer: Mr. Thomas Lewis from Atlanta, Georgia, and he wanted to get Betty to sign a paper, you know, form to represent her as her lawyer, and he said that he would assure her a great bigger settlement than she would get otherwise, to settle direct with the railroad company, but Betty objected. She didn't sign.

Q. Now, Mrs. Wills, would you tell us whether anybody else came to see your daughter, and if so, when?

A. Yes, sir, on the 4th of July, Mr. Byington from Birmingham, Alabama, he came up there.

[fol. 211] Q. Who did he say he was?

A. He said he was the chairman of the Brotherhood of the Railroad, and he wanted to carry Betty's case to Birmingham. He also promised her a great larger sum of money, and a bigger settlement, if she would carry her case on there.

Q. Did he mention, or not, any lawyer's name that he wanted to carry the case to in Birmingham?

A. I believe his name was Mr. Rives, Lawyer Rives, from Birmingham.

The Court: How would you spell that?

Mr. Bowles, Jr.: A. L. Rives, R-i-v-e-s.

By Mr. Bowles, Jr.:

Q. Now, what did Mr. Byington say, and tell us as much as you can remember of that conversation and what he told your daughter?

A. Well, on this occasion, he came and he said that when Betty got able—

Mr. Stallard: If Your Honor please, I object to all of this on the ground it is hearsay. I don't know who Byington is. Maybe the lady knows. I would like to know where he lives, his full name, so I could check up on that.

The Court: On the ground of hearsay, Mr. Stallard, we [fol. 212] are not undertaking to establish facts by what he said. What he said representing himself about it, is not put in in an effort to show that he told the truth or that those are the facts, but this evidence is admissible as a representation. It is quite a distinction, in my judgment, and the objection on the hearsay ground is overruled.

Mr. Stallard: I would like to know his full name, and where he lives, so that I might check up on who he is.

The Court: Byington is the name.

Mr. Bowles, Jr.: Byington.

A. Byington.

Mr. Bowles, Jr.: B-y-i-n-g-t-o-n.

The Court: Will you spell that for me and for Mr. Stallard again?

Mr. Bowles, Jr.: B-y-i-n-g-t-o-n.

The Court: He is from Birmingham, you say, the chairman of the Brotherhood Chapter?

Mr. Bowles, Jr.: No, sir, he is not from Birmingham.

Mr. Bowles, III: Lincoln, Georgia.

Mr. Bowles, Jr.: Now, if Your Honor please, at the appropriate time, I shall introduce Exhibit 74-C as a series [fol. 213] of exhibits, being the directory of the Grand Lodge, and subordinate lodges of the Brotherhood of Railroad Trainmen, and now have in my hand the quarterly issue of July, 1961, and I read: "Central of Georgia, Lodges 215, 302, 332, 376, 649, 721, 939, 1124, B. G. Byington, 1124, Room 300, Professional Building, Macon, Georgia." He was the chairman, sir, of that entire railroad for the Brotherhood of Railroad Trainmen.

Mr. Stallard: Your Honor please, I object to that settlement on the ground that this witness hasn't testified that that is the man. As a matter of fact, she said he is from Birmingham.

The Court: This is just in advance, as I understand it, of an exhibit that you are going to offer. Objection is overruled.

Mr. Stallard: Exception.

Mr. Bowles, Jr.: I suggest, sir, that the witness did not say that he was from Birmingham; that he was attempting to take this lady to Mr. Rives, who was a regional counsel in Birmingham. He was from Macon.

By Mr. Bowles, Jr.:

Q. Now, Mrs. Wills, how long did Mr. Byington stay? [fol. 214] A. On the first trip, I guess he stayed about approximately two hours.

Q. Tell us in as much detail as you can remember right now, what he said in those two hours?

A. That would be hard to do, but I will try to bring out the most important things. Well, the main thing he came in and introduced himself as Mr. B. G. Byington from Macon, which he represented to carry Betty Ann to Birmingham to this lawyer, Rives, and he said that he would like very much for her to go with him, when she was able,

and that he would see that she got a greater settlement there than she would in Cedar Town, because he was more capable of handling the case than any lawyer in Cedar Town or anywhere else.

Q. Did he have anything to—did he have any papers to show you that there had been other situations in which he had gotten big verdicts?

A. Oh, yes, he brought those along, too, clippings from papers, and also some cancelled checks and things where he had made other settlements with other people.

Q. Did he or did he not ask your daughter to sign a contract?

A. Yes, he asked her to.

Q. Your daughter did not sign a contract?

A. No, she didn't.

[fol. 215] Q. Did Mr. Byington ever come back again?

A. Yes, sir, he came back again.

Q. Can you remember approximately when that was?

A. Well, now, on this first trip, it was the 4th of July; he came back again in August somewhere around the middle of August, I guess, and then again in about the first of September.

Q. And how long did he stay during August?

A. Oh, he didn't stay but I guess maybe a half-hour.

Q. What did he want done on that trip?

A. Well, just the same thing. He still insisted that she went with him or let him go and carry her to Birmingham for the settlement.

Q. When he came back in September, how long did he stay?

A. I say about thirty minutes that time.

Q. What did he want your daughter to do at that time?

A. He still insisted that she went with him.

Q. How was he going to take her?

A. In a car.

Q. What kind of a car?

A. Oh, it was a big Cadillac.

[fol. 216] Q. You remember whether it was old or new?

A. It was a new one.

Q. Was there any conversation discussed about how comfortable your daughter would be?

A. Oh, yes, he said that she would be very comfortable, and also insisted that I went along and the baby, we would all be taken care of, and if she needed money for other expenses before she got her settlement, that he would see that that was all taken care of.

Q. Now, Mrs. Wills, will you tell us, please, whether or not any offer was extended to you to go along with your daughter?

A. Yes, he offered me as much money as I would need for my transportation there and back.

Q. Did he offer to take the baby, too?

A. Yes, sir.

Q. You refused?

A. We refused.

Q. Did you say anything to him with regard to whether he should or should not come back again?

A. On the third trip, I asked him to please leave and go back to Alabama, if he wanted to, or wherever he wanted to go, and not come back and worry my daughter any more.

[fol. 217] Q. Mrs. Wills, had you ever known either of these men before?

A. I had never seen them before.

Q. Did you send for them?

A. No, sir, I did not.

Q. Do you know of anybody that did send for them?

A. No, sir, they came on their own.

Q. When Mr. Byington came the first time, did anyone come with him?

A. Yes, sir, Mr. Parker.

Q. Who is Mr. Parker?

A. He is one of the men that worked on the Central of Georgia Railroad.

Q. With your son-in-law?

A. Yes, sir.

Q. What is his name, Parker Whitfield?

A. Parker Whitfield.

Q. Did you look at the things that Mr. Lewis had with him in the way of papers?

A. Well, I just kind of picked them up and glanced over them and threw them away.

Q. When he left, do I understand from your testimony that you had custody of them?

A. Yes.

[fol. 218] Q. The papers that he left, what did you do with them?

A. I took them out and burned them.

Q. Did you keep one of them?

A. Yes, sir, I think through a mistake, there was one left.

Q. I ask you whether or not you would be able to identify this as the paper you didn't burn up, or rather, a copy of it?

Mr. Bowles, Jr.: I explain, Your Honor, that I will show later that the originals of these papers are not obtainable for this Court. They are already in another court, and could not be withdrawn, but those circumstances I will explain to Your Honor later.

By Mr. Bowles, Jr.:

Q. Would you say whether or not that is a copy of one of the papers that he left with you?

A. Yes, this is one of them.

Q. Would you file that, please, as the Exhibit Estelle Wills No. 1, or A?

The Court: Mrs. Estelle Wills A will be very well..

INTRODUCTION OF PLAINTIFF'S ESTELLE WILLS EXHIBITS
NO. A AND B WITH COMMENTS OF BOTH PARTIES

(Plaintiff's Estelle Wills Exhibit No. A, a paper, was identified and filed in evidence.)

[fol. 219] By Mr. Bowles, Jr.:

Q. Now, Mrs. Wills, do you of your own knowledge know anything about any correspondence that your daughter received from Mr. Byington?

A. Other than the visits?

Q. Did you see any letters that your daughter received from Mr. Byington?

A. Yes, sir, I saw one.

Q. Do you recall when that was, whether it was after his first visit, or his second visit, or when they were?

A. Well, I just really don't know when the letter—I don't know whether it was after the first visit—it was probably after the second visit.

Q. I hand you here, and ask you whether or not you can identify these. They are purported to be photocopies of three letters, and ask you whether or not you can identify any of them, as having seen them, as having been received by your daughter through the mail? You said you remember your daughter receiving a letter. I hand you three letters. Could you identify any one of them as the one you have seen?

A. Yes, this is the three.

Q. What is that?

A. Yes.

[fol. 220] Q. Is it one, or all three?

A. This one.

Q. Oh, beg your pardon. Would you offer that in evidence as Estelle Wills Exhibit No. B? This is a letter dated July 10, 1959.

The Court: So identified and filed.

(Plaintiff's Estelle Wills Exhibit No. B, a letter, was marked and received in evidence.)

By Mr. Bowles, Jr.:

Q. Do I understand, Mrs. Wills—

Mr. Stallard: Now, Your Honor please, I object to this. The witness said she only identified one letter, and he is trying to get her to identify some other copies.

The Court: Well, I don't know whether she can or not. Are you going to ask?

Mr. Stallard: He had them in his hand, and is going to wait for her to identify them.

Mr. Bowles, Jr.: Would you wait until I ask a question?

The Court: Wait one minute.

Mr. Stallard: I wish you would read that he handed her three letters.

[fol. 221] The Court: I know that. We all know that. He handed her three, and she said she identified this one. Now, Mr. Bowles, would you conclude your question, as you are going to ask it; and don't answer it until I say so.

By Mr. Bowles, Jr.:

Q. Do I understand, Mrs. Wills, that you cannot identify these two letters, as having seen them before?

A. Well, I just can't remember now. It has been going on three years, and I just cannot remember.

Q. That is what I understood you to say. That, sir, was what I was going to ask her, before I was interrupted.

The Court: Well, in view of the answer, it is certainly not objectionable. You withdraw all objections, in view of the answer?

Mr. Stallard: Yes, sir, I certainly will.

The Court: All right.

Mr. Bowles, Jr.: Witness ready.

Cross examination.

By Mr. Stallard:

Q. Mrs. Wills, you have identified a letter here which is identified as Exhibit B, Estelle Wills; this letter is addressed to Mrs. Betty Ann Queen, 110 Park Street, Cedar [fol. 222] Town, Georgia, under date of July 10, 1959, and signed by Mr. B. A. Byington, general chairman. In the first line, this letter says:

"This will acknowledge your letter of July 8, 1959."

Did your daughter write Mr. Byington?

A. He asked her if she wanted to come to Birmingham to please drop him a note, if she wanted to come or if she didn't. She dropped him a little short note telling him that she did not want to come, and for him not to come, please not to make any reservations for her. That is why that letter was wrote to her.

Q. Well, now, this letter states, "Advising you that you

have moved, and your address is now 110 Park Street, Cedar Town, Georgia?"

A. That's right.

Q. So your daughter did write Mr. Byington a letter?

A. She wrote him a note.

Q. Now, the next paragraph says,

"This information will be recorded in our files in line with my conversation with you when I was in Cedar Town last Saturday. Further contact will be made with you in due time."

[fol. 223] Did that indicate that your daughter did not want to see Mr. Byington?

A. She did not.

Q. Well, but she voluntarily wrote and told him that her address had been changed.

Mr. Bowles, Jr.: I object to the word "voluntarily," in the light of the testimony.

The Court: This is cross-examination. The objection is overruled.

A. No, she didn't.

The Court: It is cross-examination. Now, read the question, please.

(The court reporter read the last question by Mr. Stallard.)

By Mr. Stallard:

Q. Did she not? Nobody made her write the letter?

A. He asked her if she would write him, so he could make reservations, and she dropped him the note and told him to please not come, that she wasn't going to Birmingham.

Q. This letter doesn't say that at all; this letter states that her address is changed. You take this letter and show me where she said that.

[fol. 224] A. Her address had been changed. She lived on Russell Street when the death of her husband; and after that, then she was, after he was killed, we lived on Route 1,

Cedar Town, and she was then carried—we moved from Cedar Town, Route 1, to 110 Park Street.

Q. But now, this letter doesn't say anything about your daughter not wanting to see him, does it?

A. I don't know what the letter—well, I don't know. I am not interested in it.

Q. Now, you testified on direct examination that Mr. Parker Whitfield, who worked with your son-in-law, came to your daughter's home with Mr. Byington; is that a true statement?

A. That is true.

Q. Do you recall what Mr. Parker Whitfield said when he was there?

A. No, Mr. Whitfield didn't say anything. He just listened.

Q. What was his occupation on the railroad with your son-in-law?

A. I don't know.

Q. But you knew that he worked with your son-in-law?

A. Yes.

[fol. 225] Q. And you don't know what they were doing?

A. No, I wasn't interested in it.

Q. Did he tell you that he, Mr. Parker Whitfield, had notified Mr. Byington that your son-in-law had been killed?

A. Would you repeat that?

Mr. Stallard: Read it back, please.

(The court reporter read back Mr. Stallard's last question.)

A. (Continuing) I don't know who notified him.

By Mr. Stallard:

Q. Now, the letters that you did not identify, had certain information. I am going to ask you, based on that information, did Mr. Byington write a letter to your daughter and tell your daughter that she was entitled to certain insurance, as a result of his being killed?

A. I don't remember.

Q. Did he also advise her that she was entitled to some other compensation, in any letter?

A. I don't remember all of that.

Q. Did you ever hear her discuss the matter that the first letter she received from Mr. Byington concerned some insurance money?

[fol. 226] A. I don't know.

Q. Well, could you say whether or not when Mr. Parker Whitfield brought Mr. Byington to your daughter's home, that it was not concerning the insurance and compensation she was entitled to, as a result of his death?

A. He wanted my daughter to go to Birmingham to settle with this lawyer.

Q. Well, now, was that all that was discussed; would you say that was all?

A. That is all I can remember, because I wasn't interested in him at that time, and I am not interested in him now.

Q. Well, I am not going by whether you were interested, but I want to know did Mr. Byington come there with some insurance money that was due your daughter, as a result of the death, carried with the Brotherhood of Trainmen?

A. I don't remember.

Q. But did she get any insurance money?

A. I couldn't say if she did or if she didn't.

Q. Now, wouldn't you know whether she got—is she here?

A. Yes, my daughter is here.

Q. Well, she would know, and I will ask her.

A. All right.

[fol. 227] Mr. Stallard: That is all.

The Court: Any further questions? That is all, Mrs. Wills.

(Witness excused.)

ANNIE QUEEN DOEG was duly sworn, and testified in behalf of the plaintiff as follows:

Direct examination.

By Mr. Bowles, Jr.:

Q. Would you state your present full name?

A. Annie Doeg.

The Court: Raise your voice, please.

Mr. Bowles, Jr.: Did you hear that, sir, Annie Doeg, D-o-e-g?

The Court: What was the full name of this witness?

Mr. Bowles, Jr.: Annie Doeg, D-o-e-g.

The Court: D-o-e-g! Thank you.

By Mr. Bowles, Jr.:

Q. Now, Mrs. Doeg, how old are you?

A. Twenty-one.

Q. And where do you now live?

[fol. 228] A. 239 East Fairmount, Cedar Town, Georgia.

Q. In where?

A. Cedar Town.

Q. Now, what was your name, what name did they give you when you were born?

A. Betty Ann.

Q. Betty Ann what?

A. Wills.

Q. Wills?

A. Yes, sir.

Q. Now, who did you first marry?

A. Jimmie D. Queen.

Q. Jimmie D. Queen?

A. Yes, sir.

Q. Where did he work?

A. For the Central of Georgia Railroad.

Q. What was his job?

A. He was a trainman.

Q. What organization, if any, did he belong to?

A. To the Brotherhood.

Q. Now, would you tell me, please ma'am, what day he was killed, and where?

A. June 24, 1959, in Summerville, Georgia.

Q. Now, how soon after his death did you go to the [fol. 229] hospital?

A. It was the second day.

Q. Second day after he was killed?

A. Yes, sir.

Q. And I believe you gave birth to a child?

A. Yes, sir.

Q. Now, when did you get out of the hospital?

A. I believe it was the 2nd of July.

Q. Did you go back to your home, or to some other place?

A. I went to Mother's house.

Q. Did anybody else go to your mother's place with you?

A. My brother and his wife.

Q. And what is your brother's name?

A. Harold Wills.

Q. And what is his wife's name?

A. Mary Ann.

Q. And she is your sister,—she is your sister-in-law?

A. Yes, sir.

Q. And her name is Mary Ann Wills?

A. Yes, sir.

Q. Now, where, at the time of your husband's death, [fol. 230] were you, and your brother and his wife, and your husband living?

A. At 824 Russell Street.

Q. All at the same house?

A. Yes, sir.

Q. Now, when your husband was killed and you were about to go to the hospital, what sort of family arrangement did you all then make?

A. Well, after I went to the hospital and came back, we went to Mother's house and lived.

Q. And where was your mother's house?

A. At Route 1, Cedar Town.

Q. And how far outside of Cedar Town was that, about?

A. About 9 miles.

Q. Now, can you tell me when you got back from your hospital to your house, whether anybody came to see you about your husband's death?

A. Well, Mr. Lewis came from Atlanta.

Q. Did he say what his name was?

A. Tom Lewis, Jr.

Q. Did he say what he was?

A. Well, he said he was representing the railroad.

Q. What did he do; I mean, what was his business professionally?

A. Well, he just tried to get my case to take it to Atlanta; told me I could get more money out of it if I took it up there and let him handle it.

Q. Did he tell you what he did to earn a living?

A. No, well, he was in law business, himself.

Q. He was a lawyer?

A. Yes, sir.

Q. And what did he—how long did he stay there?

A. Oh, about an hour.

Q. And during that hour, what did he want you to do?

A. Well, he tried to get me to go to Atlanta and let him handle the case, and he tried to get me to sign some papers that I would go, and I told him I wasn't interested, but he kept on anyway. So he left some papers, and said if I was interested, that I could drop him a letter and let him know.

The Court: Won't you speak a little louder, so we can hear you with less effort? Just take your time.

A. (Continuing) Yes.

The Court: And, if you will, speak directly to me, it will help. Just take your time.

[fol. 232] By Mr. Bowles, Jr.:

Q. Mrs. Doeg, you have got some competition out here on the street in the form of buses, so if you can try to meet it, please, ma'am.

Now, did Mr. Lewis ever come back?

A. No, sir.

Q. Did anybody else ever come to see you?

A. No, sir.

Q. Did any other person than Mr. Lewis ever come to see you?

A. Mr. Byington.

Q. Now, I want to ask you, did you, or anybody, with your knowledge on your behalf, ever send for either of these men?

A. No, sir.

Q. Did you ask them to come to see you?

A. No, sir.

Q. Had you ever known them before?

A. No, sir.

Q. Now, when did Mr. Byington come?

A. On July 4.

Q. And what did he say he wanted, and what did he say he was, and who he was, and tell us what he said?

A. Well, he said he was the chairman of the Brotherhood [fol. 233] Railroad representing, and that he liked to get my case, to take it to Birmingham, Alabama, so that he said that I would get more money out of it if I would take it down there.

Q. And what lawyer was he speaking for?

A. A. L. Rives.

Q. And tell us what he had to say about why you should go there?

A. Well, he said that those lawyers down there could get much more money than I could get from Cedar Town, and he was showing me some copies of money and things where he had been able to get much more money than anybody around here could get.

Q. Did you say you would go, or what did you do?

A. No, sir, I told him I wouldn't go. I wasn't interested.

Q. Did he ask you to think it over?

A. Yes, he wanted me to think it over and leave him know, but I told him I wouldn't be interested.

Q. Did you write him a note with whether you would or whether you wouldn't?

A. No, sir.

Q. You did not?

A. No, sir.

[fol. 234] Q. Did he come back?

A. Yes, sir.

Q. When did he come back?

A. I believe it was in October about the middle of October he came back.

Q. And what did he have to say to you then?

A. Well, he was still trying to get me to go to Birmingham.

Q. Did you agree to go to Birmingham?

A. No, sir.

Q. What did he want you to go to Birmingham for that time?

A. Well, he was still trying to get me to go over there to take it to A. L. Rives, so that he could get more money for me.

Q. Did you agree to go that time?

A. No, sir.

Q. Did he show you anything at that time, or give reasons why you should go, on that visit?

A. Well, he showed me some papers and some photostatic copies of money and stuff, where he had got a whole lot more money for other people.

Q. How long did he stay that time?

A. Well, he did not stay too long.

[fol. 235] Q. Did he ever come back again?

A. Yes, sir, he came back around the first of September, I believe.

Q. Now, what did he say that time?

A. Well, he was still trying to get me to go to Birmingham, and I told him I wasn't interested.

Q. Was your mother present or not, during these conversations?

A. Some of them she was.

Q. Who else was present during these conversations with Mr. Byington?

A. Mary Ann was there part of the time.

Q. And was anyone else present during your conversations with Mr. Lewis or Mr. Byington?

A. Well, I believe Mary Ann was there when Mr. Lewis came, part of the time.

Q. Now, about your brother, was he there?

A. Yes, he was there a little while.

Q. Now, you never did sign up with either of these gentlemen, did you?

A. No, sir.

Q. You did settle your case?

A. Yes, sir.

Q. Did Mr. Byington write you any letters?

[fol. 236] A. Yes, sir.

Q. I hand you three letters, one of which, Your Honor, is Exhibit Estelle Wills No. B, and ask you whether or not you can identify these as being photocopies of letters you received from Mr. Byington. Would you read them carefully, please, ma'am?

A. Yes.

Q. Your answer was yes?

A. Yes, sir.

The Court: You identify all three of them, is that what you mean?

The Witness: Yes, sir.

By Mr. Bowles, Jr.:

Q. Now, at the same time, Mrs. Doeg, I ask you to look at this piece of paper which purports to be a photograph, a photostatic copy of the envelopes in which these three letters came, and in addition, photocopies of three signatures of yourself which purport to identify on the back of these envelopes, the envelopes; themselves; do you remember doing that?

A. Yes, sir.

Q. Are those the photocopies of the envelopes that match the dates of these letters?

A. Yes, sir.

[fol. 237] Q. And you got those?

A. Yes, sir.

Q. Did you reply to any of them?

A. Well, he wanted me to write and let him know when I moved from out in the country, to let him know where that I had moved to.

Q. Did you do that?

A. Yes, sir; I dropped him a note.

Q. Did you tell him when you did that, whether you would or would not go to Birmingham?

A. I told him I was not interested, but I would give him my address.

**INTRODUCTION OF PLAINTIFF'S DOEG EXHIBITS No. A
THRU C WITH COMMENTS OF BOTH PARTIES**

Q. Now, I hand you now a letter from Mr. Byington dated June 29, and with it, the photocopy of the envelope of same, postmarked Macon, Georgia, June 29. Now, Mrs. Doeg, I hand you now a letter addressed, dated June 29, 1959, Mrs. J. M. Queen, Russell Street, Cedar Town, Georgia, signed by B. G. Byington, general chairman, on the stationery of the Brotherhood of Railroad Trainmen, General Grievance Committee, Central Georgia Railways, to which is attached photocopy of an envelope addressed to you at that address, and stamped Macon, June 29, 1959, and also the photocopy of the reverse side of that envelope, your signature, Betty Ann Queen, September 28, 1959, and ask you whether you will offer that as your exhibit, Betty [fol. 238] Ann Doeg, No. A?

Mr. Stallard: What was that exhibit?

(Plaintiff Doeg Exhibit No. A, a letter, was identified and filed in evidence.)

By Mr. Bowles, Jr.:

Q. Now, I will hand you also what has already been put into evidence as Estelle Wills Exhibit No. B, a letter dated July 10, on the same stationery, July 10, 1959, signed by B. G. Byington, general chairman, addressed to Mrs. Betty Ann Queen, 110 Park Street, Cedar Town, Georgia, re: Jimmie D. Queen, deceased, to which has now been attached photocopy of an envelope with postmark Macon, Georgia, July 10, 7:30 p.m., 1959, and to which is also a photocopy of your signature on the reverse, Betty Ann Queen, September 28, 1959, and ask you will you also offer that as your exhibit, with your testimony, Annie Doeg Exhibit B?

A. Yes.

(Plaintiff's Doeg Exhibit No. B, a letter, was identified and filed in evidence.)

By Mr. Bowles, Jr.:

Q. I hand you also another letter on the same stationery, dated July 23, 1959, addressed to you at the same address [fol. 239] on the same subject, signed by B. G. Byington, general chairman, to which is attached a photocopy of an envelope stamped Macon, Georgia, July 23, 7:30 pm, 1959, and a photocopy of your signature, Betty Ann Queen, September 28, 1959, on the back, and ask you to identify that as an exhibit with your testimony, Annie Doeg.

(Plaintiff Doeg Exhibit No. C, a letter, was marked and received in evidence.)

Mr. Bowles, Jr.: Your witness.

Cross examination.

By Mr. Stallard:

Q. I believe your exhibit, Annie Doeg Exhibit A, is a letter addressed to you, Mrs. Doeg, when you were Mrs. J. D. Queen, under date of June 29, 1959, from Mr. B. G. Byington, general chairman, and, among other things, he states to you:

"Please accept the heartfelt sympathy of all members of the Brotherhood Association employees and fellow workers of your kind and loving husband . . ."

Did Mr. Byington know your husband?

A. I don't know.

Q. Now, that is the first paragraph. Then the next paragraph, he says,

"Brother Queen, having been farsighted to the extent that he was a member of the Brotherhood, entitles you to all the benefits we can afford, such as assisting you with your claims under the Railroad Retirement Act . . ."

Did you get any money under the Retirement Act?

A. Yes, sir.

Q. How much did that amount to?

A. \$25,000.

Q. \$25,000?

A. Yes, sir.

Q. And he assisted you in filling out certain forms?

A. Yes.

Q. That didn't have anything to do with his claim for death; that was under an insurance feature, wasn't it?

A. No, sir, that was the claim.

Q. The retirement, the Railroad Retirement Act?—that wasn't the amount—I am talking about what did you get under the Railroad Retirement Act; he was a member of the retirement, wasn't he?

A. Yes, sir.

Q. Didn't you get certain benefits as the widow, and your [fol. 241] child?

A. Yes, sir.

Q. Mr. Byington helped fill out those papers, actually he brought them to you, didn't he?

A. No, sir.

Q. Well, he states in his letter, "which is an annuity paid monthly for you, and as I understand, a child soon to be born." Where did he get that information from?

A. I don't know.

Q. Well now, he also tells you, does he not, that he is coming down to see you on July 4. Did he tell you in a letter that he—weren't you looking for Mr. Byington to come down to see you?

A. No, sir.

Q. You were not looking for him?

A. No, I didn't even know the man.

Q. Whom did he come with, then?

A. He come with Parker Whitfield.

Q. Now, this letter states this:

"I plan at present to be in Cedar Town either Saturday or Sunday, July 4th or 5th, and will be pleased to call on you while in Cedar Town."

This is addressed to you on June 29. Did you receive [fol. 242] this before you saw the man? I want you to look at it.

A. I don't remember if I did or if I didn't.

Q. Well, he tells you that he is coming down to see you. Now, when did you receive the letter?

A. The date is on here, I reckon.

Q. Well, he told you he was coming down to see you on July 4, didn't he? Didn't he tell you he was coming to see you?

A. No, he didn't tell me in person he was.

Q. Well, he told you in the letter he was, didn't he, that he was coming down to see you?

A. Yes, he said he was. This is the first I ever heard about it.

Q. Did he bring you any papers on your retirement?

A. No, sir.

Q. He didn't bring you any papers?

A. No, sir, he sure didn't. He didn't have a thing to do with it.

Q. He didn't have a thing in the world to do with it?

A. No.

Q. Did your husband have any insurance with the Railroad Brotherhood?

A. No, sir.

[fol. 243] Q. He didn't have any insurance?

A. No, sir.

Q. He doesn't mention insurance in this letter, but he does mention that your husband was entitled to certain claims under the Retirement Act. Now, did he come to see you on July 4?

A. Yes, sir.

Q. He stated he would be at your house either the 4th or 5th. Do you know who came with him?

A. Parker Whitfield.

Q. Was Parker Whitfield a friend of your husband's?

A. Yes, sir.

Q. Well, now, did Parker Whitfield say that he brought Mr. Byington to your home?

A. Yes, sir.

Q. He did?

A. Yes.

Q. Well, now, Mr. Byington had written you before Parker Whitfield came with him, had he not?

A. Yes, sir.

Q. Now, I ask you in another letter which I have here, if he didn't write you and say that he was going to be

back down to see you, but something happened, and he didn't come, but later on, he came. Do you remember him [fol. 244] writing you another letter and saying that he was sorry he hadn't been able to get down to see you?

A. Yes, sir.

Q. That letter was written July 10, wasn't it?

A. I don't remember.

Q. Now, he came to see you on July 4, and on July 10 he acknowledged receipt of a letter from you on July 8; is that correct? Read this, and see if it is correct.

A. Yes.

Q. Is that correct?

A. Yes.

Q. You wrote him and told him you were moving, and he said that he recorded the information in his file, didn't he?

A. Yes, sir.

Q. Now, when he was down to see you, your mother, here, has identified as Estelle Wills Exhibit A, what purports to be an Amendment to the Federal Employers Liability Act, 76th Congress, United States Congress, and signed by the President August 10, 1939. Where did you get this instrument?

A. From Lewis.

Q. From Mr. Lewis?

A. Yes.

Q. He left that with you?

[fol. 245] A. (No answer)

Q. Now, talking about Mr. Lewis, had you ever seen Mr. Lewis before?

A. No, sir.

Q. Would you know him if you saw him now?

A. I might.

Q. Do you know, as a matter of fact, that he was a lawyer, or did he represent himself to be a lawyer?

A. Well, he said he was a lawyer.

Q. Did he leave any card that would indicate he had visited you?

A. Yes.

Q. He did leave a card; have you got the card?

A. No, sir.

Q. Did he write you a letter after he left?

A. No, sir.

Q. And you never had seen him before?

A. No, sir.

Q. How far do you live from Atlanta?

A. Oh, it's about 60 miles.

Q. About 60 miles. Now, Mr. Whitfield was a close friend of your husband's, you say?

A. Yes, sir.

Q. Did he come to your home before your husband was [fol. 246] killed; was he a personal friend?

A. No, sir.

Q. Do you know why he came with Mr. Byington?

A. To show him where we lived.

Q. To show you where he—well, Mr. Byington had written you before, though, hadn't he?

A. No, sir.

Q. He had not written you before?

A. Not until he come out to the house.

Q. Well, now, I have just shown you a letter stating—you said you received it under date of June 29—that he was coming to your house on July 4.

Mr. Bowles, Jr.: She couldn't have received it on the 29th, when it was postmarked in Macon on the 29th, sir.

By Mr. Stallard:

Q. Did you see it any time between June 29 and July 4?

A. I don't remember.

Mr. Bowles, Jr.: If Your Honor please, I would remind Mr. Stallard that this lady was in the hospital having a baby during all of this time.

The Court: Well, the cross-examination may proceed.

[fol. 247] By Mr. Stallard:

Q. Yes, sir. Well, now, this letter tells you that Mr. Byington will be in to see you, he says,

"I plan at present to be in Cedar Town either Saturday or Sunday, July 4 or 5th, and will be pleased to call on you while in Cedar Town."

He came there, you say, on July 4, with your husband's friend, and that is true, isn't it?

A. Yes, sir.

Q. Didn't you expect to see him either on July 4 or 5th; weren't you looking for him?

A. No, I wasn't looking for him.

Q. Well, you had received a letter, hadn't you?

A. Not on July 4, I hadn't.

Q. Well, it was addressed to you on June 29 and post-marked Macon, Georgia. How far is Macon, Georgia from your town of Cedar Town?

A. Well, it is over 100 miles.

Q. About 100 miles; well, when he came, when did you receive this letter? Would you know?

A. No, I don't remember.

Q. Well, you have kept the envelope, and you have introduced it in court; wouldn't you have some approximate [fol. 248] knowledge?

A. No.

Q. Well, now, did anybody compel you to write Mr. Byington a letter under date of July 8, and tell him you were moving, and your address would be different?

A. He had.

Q. Well, now, nobody compelled you to write him though, on July 8, and say, "I have moved," nobody asked you to do that, did they?

A. No, nobody but Mr. Byington.

Q. He asked you to do that. Well, he acknowledged that letter, didn't he?

A. I reckon.

Q. Whom have you talked to about this case before you came here today?

A. I haven't talked to anyone.

Q. I want to show you a letter under date of July 23, addressed to you from Mr. Byington. You have identified it as Annie Doeg Exhibit 3.

The Court: 3—C, or 3?

Mr. Stallard: C.

The Court: Yes.

By Mr. Stallard:

Q. July 23, Mr. Byington says this to you:

[fol. 249] "Circumstances unforeseen have prevented me from making the trip to Cedar Town and Birmingham this week, but in all probability, it will be convenient for me to make the trip either Friday or Saturday next week, if convenient to you."

Did you ever agree to go with him anywhere?

A. No, sir.

Q. You never agreed to go anywhere?

A. No, sir.

Mr. Stallard: That is all. I have no further questions.

Redirect examination.

By Mr. Bowles, Jr.:

Q. Mrs. Doeg, Mr. Stallard asked you whether you had the card that Mr. Lewis left with you; what did you do with that card?

A. I threw it away.

Q. You did?

A. Yes.

Q. Mr. Stallard asked you if you had talked to anybody before you testified here; you talked to me, haven't you? [fol. 250] A. Yes, sir.

Mr. Bowles, Jr.: I just wanted to clear up that I am somebody, and I am not just nobody.

Recross examination.

By Mr. Stallard:

Q. Mrs. Doeg, may I ask you, have the representatives of the Association of American Railroads been to see you?

A. The what?

Q. Have the representatives of the American Association of Railroads been to see you?

A. I don't remember.

Q. Well, how did this gentleman ever find out about. Do you know?

A. Who are you talking about?

Q. Didn't somebody come to your place and ask you to come up here to Virginia as a witness?

A. Yes, sir.

Q. Who is that?

A. Mr. Eaton.

Q. Who is Mr. Eaton?

Mr. Bowles, Jr.: If she doesn't know, I will stipulate that he was a representative of the Association and still is— [fol. 251] of the Association of American Railroads, who, at my request, interviewed this lady to see whether she would be willing to come up here, and I found out about it first through the arrangements of the Bar Association and the proceedings in which Mr. Byington was indicted for barratry, and convicted, sir.

By Mr. Stallard:

Q. Now, who is paying your fare up here; the American Association of Railroads?

Mr. Bowles, Jr.: The State Bar of Virginia; I concede that. I sent him the checks, myself.

Mr. Staliard: I didn't ask him. I asked her.

The Court: I don't think he has been sworn, either.

By the Court:

Q. Who is paying your fare up here; who bought your ticket?

A. The State Bar of Virginia.

By Mr. Stallard:

Q. The State Bar of Virginia?

A. Yes.

Q. Sent you the money?

A. Yes.

[fol. 252] Q. To furnish your transportation up here?

A. They sent me a check.

Mr. Stallard: That is all.

Mr. Bowles, Jr.: And, if Your Honor please, she has been here a day longer than we expected her, and we have got another check to pay her for the extra day coming, her expenses.

The Court: Any further questions?

Mr. Bowles, Jr.: None to Mrs. Doeg.

The Court: I want to ask Mrs. Doeg this:

By the Court:

Q. The first letter, which you have identified, was dated Macon on June 29, 7:00 p. m. On that day, were you still in the hospital?

A. Yes.

Q. On June 29; you didn't leave the hospital until July 2, as I recall?

A. Yes, sir.

Q. I wonder if you remember the day of the week of July 2 when you left the hospital?

A. No, sir.

Q. Can you tell me the date of the birth of your child?

A. June 27.

[foi. 253] Q. What day of the week was that; do you remember?

A. No, sir, I don't.

Q. You don't know?

A. No, sir.

Q. Of course, that is easy to ascertain. I thought maybe you would have it in mind.

When you went to the hospital on June 24,—wasn't it?

A. No, I believe it was June 26.

Q. That's right. Your husband's death was June 24.

A. Yes, sir.

Q. You went in the hospital on June 26; from where did you go to the hospital, what residence? Where were you living?

A. Well, I was living at that time in Cedar Town, but after I went to the hospital and came home, I went to my Mother's house.

Q. I understand, but what I wanted to know, was where were you when you left for the hospital on June 26; where were you taken from, to the hospital?

A. Mother's house.

Q. What?

A. Mother's house.

Q. And what was that address?

[fol. 254] A. Route 1, Cedar Town.

Q. How long before that had you left the Russell Street address?

A. I believe it was a day.

Q. The same day?

A. Yes.

Mr. Bowles, Jr.: Do you have anything else, Judge?

By the Court:

Q. You are not able to recall whether or not you received this first letter from Mr. Byington before he got there; is that right?

A. Yes.

Q. You are not able to remember?

A. No, sir.

The Court: I have no further questions.

Redirect examination.

By Mr. Bowles, Jr.:

Q. I want to ask you this, Mrs. Doeg, is the Russell Street address where you and your husband were living when he was killed?

A. Yes, sir.

Q. And after he was killed, then you went to your [fol. 255] mother's?

A. Yes, sir.

Q. And from your mother's to the hospital?

A. Yes, sir.

Q. You never went back to Russell Street?

A. No, sir.

Q. Now, we are talking about dates. Can you remember whether Mr. Lewis came the day you came back from the hospital or the day afterwards?

A. I believe it was the day I came from the hospital.

Q. The day you came from the hospital?

A. Yes.

Mr. Bowles, Jr.: I have no other questions.

The Court: I have no questions.

Mr. Stallard: I would like to ask one more question.

Recross examination.

By Mr. Stallard:

Q. What was Mr. Lewis' full name?

A. Tom Lewis, Jr.

Q. Tom Lewis, Jr.? Thank you.

The Court: Thank you, Mrs. Doeg. That is all.

(Witness excused.)

[fol. 256] Mr. Bowles: Call Mrs. Mary Ann Wills.

MARY ANN WILLS was duly sworn, and testified in behalf of the plaintiff as follows:

Direct examination.

By Mr. Bowles, Jr.:

Q. You are Mrs. Mary Ann Wills?

A. Yes, sir.

Q. How old are you?

A. Nineteen.

Q. Who is your husband?

A. Harold Wills.

Q. Is he the brother of Mrs. Doeg, who just left the witness stand?

A. Yes.

Q. Where do you live now, Mrs. Wills?

A. Route 1, Cedar Town.

Q. You live with your mother, I mean your mother-in-law?

A. No, sir.

Q. Oh, you do not?

A. No.

Q. Now, where were you living at the time of your sister-in-law's husband's death?

[fol. 257] A. We were living with her, her and him.

Q. And where was that, on Russell Street?

A. Yes.

Q. In Cedar Town?

A. Yes.

Q. Now, when he was killed, where did you go to move?

A. We moved to her mother's, my mother-in-law's.

Q. How soon after his death, about, did Mrs. Doeg go to the hospital?

A. The 27th of June.

Q. When she came back from the hospital, you were all living at your mother-in-law's?

A. Yes.

Mr. Bowles, Jr.: Now, Your Honor, I make this suggestion only. This lady has been sitting in the courtroom. She has heard the other testimony. We can save time if I am permitted to ask her, does she subscribe to it, and is that correct.

The Court: Have you any objection to that method, Mr. Stallard?

Mr. Stallard: Well, I certainly want to cross-examine her.

The Court: Oh, you have that privilege.

[fol. 258] Mr. Stallard: Yes, he can do that.

By Mr. Bowles, Jr.:

Q. You have heard Mrs. Doeg and your mother-in-law testify. Were you present at some of these conversations with Mr. Lewis?

A. Yes.

Q. And Mr. Byington?

A. Yes.

Q. You have heard their testimony; is that correct, according to your recollection, what they said happened on those occasions?

A. Yes.

Mr. Bowles, Jr.: Witness ready.

Cross examination.

By Mr. Stallard:

Q. When Mrs. Queen was in the hospital, did you take her mail to her?

A. Yes, we took some of it to her.

Q. Do you remember whether you took the letter which I hand you here—it is Exhibit A—it is a letter addressed to Mrs. J. D. Queen, Russell Street, Cedar Town, Georgia, under date of June 29, and signed by Mr. B. G. Byington. I ask you if you took that letter to her?

[fol. 259] A. I don't remember.

Q. Now, did you ever hear her discuss that letter, getting a letter from Mr. Byington?

A. Yes, sir, she said she—I remember, too, that she got from him—and she told me about it.

Q. You remember, too, that she got it?

A. Yes.

Q. Did he have some papers for her to sign when he came down the first time, or were you present?

A. Yes, he had.

Q. He had some papers?

A. Yes.

Q. He got her to sign those papers and sent them to the Railroad Retirement Act, did he not?

A. No, sir, she didn't sign anything.

Q. She didn't sign any of the papers to get her retirement?

A. No, sir.

Q. You are positive she never signed any papers to get retirement?

A. Yes.

Q. She got some retirement, didn't she?

A. Yes.

Q. Will you read that letter? It says that he is coming [fol. 260] down there, and says she is entitled to retirement?

A. Well, I don't remember him saying anything about this.

Q. You don't remember him saying a thing about that?

A. No, sir.

Q. But you did carry some mail to her when she was in the hospital?

A. Yes.

Mr. Stallard: All right, that is all.

Redirect examination.

By Mr. Bowles, Jr.:

Q. I forgot to ask you one thing, do you know anything about whether or not your sister-in-law, Betty Ann, got any telephone call from Mr. Byington?

A. Yes, sir, she did.

Q. Were you present when she got it?

A. Yes.

Q. You didn't hear what, or did you hear what Mr. Byington said on the telephone?

A. No, sir.

Mr. Stallard: Well, Your Honor please, I must object to this.

[fol. 261] Mr. Bowles, Jr.: I can ask her whether she had it or not.

Mr. Stallard: I don't believe this witness would know of her own knowledge whether Mr. Byington called on the telephone.

The Court: Perhaps she does know. The question is if she did hear it.

Mr. Stallard: If you read the question, he asked if she knew that the sister-in-law got a call from Mr. Byington.

The Court: That's right, and you didn't object to that, and she said yes. The next question is whether or not she heard anything that Mr. Byington said; isn't that the order of examination?

Mr. Stallard: I respectfully submit—

The Court: Mr. Bowles?

Mr. Bowles, Jr.: Sir?

The Court: Am I right, isn't that right, the order of examination of proceeding?

Mr. Bowles, Jr.: That is correct. I was asking her whether she had heard that conversation, to see whether or not she could testify to it of her own knowledge.

The Court: The question is whether you did or did not [fol. 262] hear what Mr. Byington said.

A. No, sir, I didn't hear it.

The Court: Didn't hear it.

By Mr. Bowles, Jr.:

Q. I am not going to ask her any more, sir. Now, the other question that I wanted to ask you, and I forgot, was have you seen Mr. Lewis since this occasion?

A. Yes, we seen him in Cedar Town. I did, at the courthouse.

Q. When was that?

A. I just don't know. It's been—

Q. Been this year?

A. Yes, sir.

Q. And was it the same man that came to see you, that came to your home?

A. Yes.

Recross examination.

By Mr. Stallard:

Q. What was the occasion you saw him in Cedar Town?

A. We had to go to court on Byington.

The Court: I couldn't hear the answer there. You had to go to court on—

A. Mr. Byington.

[fol. 263] By Mr. Stallard:

Q. Now, you say Mr. Byington called your sister-in-law. She just told you that he called her, didn't she?

A. Yes.

Mr. Stallard: Your Honor, I object to her first question, and ask that it be stricken, because she said her sister-in-law told her that Mr. Byington called.

Mr. Bowles, Jr.: I understood that she knew that.

The Court: That answer will be stricken from the record, which doesn't mean anything, of course, because it stays in the record for public purpose. I mean, I just won't pay any attention to it.

Mr. Bowles, Jr.: I understand, sir. Are you through, Mr. Stallard?

Mr. Stallard: Yes, sir.

Redirect examination.

By Mr. Bowles, Jr.:

Q. Mr. Stallard asked you about Mr. Lewis being—oh, excuse me, I beg your pardon.

A. Are you still talking to me?

Q. Yes, still talking to you. —that you had gone to court about Mr. Byington. Do you know where you were at the [fol. 264] court about Mr. Byington?

Mr. Stallard: Now, Your Honor please, I certainly object to that.

Mr. Bowles, Jr.: You opened the question.

Mr. Stallard: I object to the proceeding why. The record will speak for itself, and this witness might tell a whole lot of things, and not miss them in court here. I have not opened that question at all.

The Court: You brought out on cross-examination that she had seen Mr. Lewis at a subsequent time.

Mr. Stallard: She had to go to court, and I stopped.

The Court: At the court, on Byington. I believe that is her exact language.

Mr. Stallard: She said that.

The Court: She said that?

Mr. Stallard: Yes.

The Court: Can't she tell what was going on about Byington?

Mr. Stallard: No, I don't think so. I think that would be a matter of record. I think that would not be—I think that would be a matter of record, because the witness might not know exactly the charge.

[fol. 265] The Court: She might not, and you might cross-examine her, and show she doesn't know what she is talking about, but if she does know, what kind of case that was about Byington, the objection is overruled. Now the question is?

Mr. Bowles, Jr.: I don't know whether she knows or not.

The Court: I don't know, either. She knows better whether she knows, than we do.

By Mr. Bowles, Jr.:

Q. Do you know what that was all about, you were summoned to go to court, weren't you?

A. Yes, sir, but I didn't get up and testify. I didn't even go in there.

Q. You don't know why you were summoned?

A. No, sir.

Mr. Bowles, Jr.: I have no further questions.

The Court: No further questions?

Mr. Bowles, Jr.: No, I am through.

(Witness excused.)

Mr. Bowles, Jr.: Mr. Wills, please.

[fol. 266] HAROLD WILLS was duly sworn, and testified in behalf of the plaintiff as follows:

Direct examination.

By Mr. Bowles, Jr.:

Q. You are Mr. Harold Wills?

A. Yes, sir.

Q. How old are you, sir?

A. Twenty-five.

Q. Where do you live?

A. Route 1, Cedar Town.

Q. Are you Betty Ann Doeg's brother?

A. Yes, sir.

Q. And Mrs. Wills, who has testified here before, is your mother?

A. Yes, sir.

Q. And the lady who has just testified, and left the witness stand, is your wife?

A. Yes, sir.

Q. Now, where were you living on June 24, 1959?

A. I was living on Russell Street with my brother-in-law and my sister, and my wife.

Q. And your brother-in-law was J. D. Queen?

A. Yes, sir.

Q. Was he killed on June 24, 1959?

[fol. 267] A. Yes, sir.

Q. Who did he work for?

A. Central Georgia Railroad.

Q. Was he a member of any organization connected with that?

A. Well, I don't know. I never discussed his business with him.

Q. Now, again, Your Honor—well, I will ask this one more question. Were you present at your mother's home when, as it has been testified to, Mr. Lewis came?

A. Yes sir, I was out in the yard mowing the grass, and he drove up, and he introduced himself to me. He wanted to know where my sister was, so I carried him into the the house, and introduced him to my mother and my sister and my wife. We was all in the house there, my wife and sister and baby.

Q. How did he introduce himself to you?

A. As Tom Lewis, Jr., lawyer from Atlanta. He wanted to talk to my sister.

Q. Did he say whether or not he was connected with any particular organization?

A. Well, now, no, sir, he didn't say it to me.

Mr. Bowles, Jr.: Now, I suggest, Your Honor, the same procedure, if it is agreeable with Mr. Stallard with regard to these three witnesses testifying.

[fol. 268] The Court: You may ask your question, and we will see if Mr. Stallard objects.

By Mr. Bowles, Jr.:

Q. You have heard your mother testify, your sister, Betty Ann, and your wife testify. Do you subscribe fully to what they have said?

A. Well, now, I was not at home all the times that most of them came. I was there when Mr. Lewis come, and I was there a few minutes when Mr. Byington come the second time.

Q. And were you not there on Mr. Byington's first visit?

A. No, sir.

Q. Or his last visit?

A. No, sir.

Q. Otherwise, you subscribe to their testimony?

A. Yes, sir.

Mr. Bowles, Jr.: Witness ready. One more question I forgot. Well, never mind, sir. Just go ahead. I had a note, and I lost it.

The Court: Cross examination?

[fol. 269] Cross examination.

By Mr. Stallard:

Q. Who asked you to come up to Richmond to testify in this case?

A. Mr. Bill Eaton.

Q. Mr. Bill Eaton?

A. Yes, sir.

The Court: How do you spell that, Mr. Stallard?

By Mr. Stallard:

Q. Do you know how to spell it? Do you know how to spell his name?

A. E-d-e-n-s.

The Court: Mr. Edens?

A. Eden—E-d-e-n-s?

The Court: E-d-e-n-s?

By Mr. Stallard:

Q. Is he a representative of the Association of American Railroads?

A. Yes. He told me he was.

Q. He told you he was?

A. Yes, sir.

Q. Do you know what job he has with the Association of American Railroads?

A. No, sir, I would be afraid to say about that.

[fol. 270] Mr. Stallard: Thank you. That will be all.

A. All right, sir.

Redirect examination

By Mr. Bowles, Jr.:

Q. The thing I forgot to ask you, sir, is any occasion when Mr. Byington was there, did you request Mr. Byington to leave?

A. Well, no, sir. He was there, I was working and driving a truck, and I went by the house, and I seen this car stop, so I stopped to see what it was all about, and he was in there talking to my sister, and I just went in the kitchen and got me a drink of water, and come back through, and stopped a few minutes, and he was showing us some paper clippings and some photostatic copies of some checks, cancelled checks, and wanted her to go to Birmingham to court. So, of course, that didn't figure in my business, so I just got to my chores and I left.

Q. You left?

A. Yes, sir.

Mr. Bowles, Jr.: I see. That is all.

Mr. Stallard: No questions.

The Court: That is all.

Mr. Bowles, Jr.: That is all. Thank you.

(Witness excused.)

[fol. 271] Mr. Bowles, Jr.: May these witnesses be excused, sir? They are very anxious to get back to Cedar Town.

The Court: Yes. How many are there? There are six? We have had four testify, but there are some that are accompanying them.

Mr. Bowles, Jr.: Mrs. Doeg's husband is there.

The Court: There are five, all together, or six?

Mr. Bowles, Jr.: He is not going to testify. He knows nothing about it.

The Court: This is all of the Georgia group?

Mr. Bowles, Jr.: That is correct, then.

The Court: Are you willing to excuse them?

Mr. Stallard: Yes, certainly.

The Court: All the witnesses testified, and their companions from Georgia will be excused from further attendance in court.

MOTION TO STRIKE AND OVERRULING THEREOF

Mr. Stallard: Your Honor, I would like to make a motion to strike this evidence on the ground that it has not been shown that Mr. Byington called upon the witnesses, representing my client, the Brotherhood. The letters indicate that he was general chairman of a local lodge, and I respectfully submit that a general chairman [fol. 272] of a local lodge is not an employee or a representative of the International, because the local lodge is nothing but a subordinate lodge, and at no time are they employees or representatives. Now, if he were calling upon this lady as an employee or representative of the International, but she specifically said that her husband didn't have any insurance, and therefore, he couldn't have been calling on her as a representative of the Brotherhood. I object further to the evidence, and move it be stricken out on the ground that it is a matter that happened in Georgia, and the case here is specifically asking the Court to enjoin my client from practicing law in Virginia.

The Court: I may be wrong in my recollection, but the plaintiff is going to show that the attorney in Birmingham, Mr. A. L. Rives, is one of these regional counsel.

Mr. Bowles, III: That's right.

Mr. Bowles, Jr.: We will do that in just a minute.

The Court: I understand that. That was my understanding. In view of that, I think that the objection is not well founded, and it is overruled, and the testimony will stand.

Mr. Stallard: I would like the record to show that—
[fol. 273] The Court: Yes, exceptions, of course, noted.
Now, we will take a recess. Now, please, until four o'clock.

(Recess.)

INTRODUCTION OF BYINGTON EXHIBIT A, AND PLAINTIFF'S
EXHIBITS 67 THRU 81 WITH COMMENTS OF BOTH PARTIES

Mr. Bowles, III: I would like to introduce as our next exhibit, Your Honor, the case of the State of Georgia against B. G. Byington, consisting of a True Bill, returned by the grand jury; the report of the evidence; the charge to the jury; and the conviction order. I would like this to be marked as Byington Exhibit A, if I may, sir.

Mr. Stallard: May I see the exhibit, Your Honor?

The Court: Yes, sir.

Mr. Stallard: If Your Honor please, I object to the introduction of these papers on the ground that this apparently is an indictment in the Superior Court of Georgia of a man by the name of B. G. Byington. He is charged with "Seek out and proposed to another person, to wit: Mrs. Betty Ann Queen, that she present and urge a suit in court for the death of her husband, Jimmie D. Queen against Central Georgia Railroad Company." I respectfully submit that nowhere has it been shown that Byington, when he did this, if he did it, was acting as an employee or agent of [fol. 274] the defendant Brotherhood in this case. It has been pointed out, but not in this record, that Byington tried to get Mrs. Betty Ann Queen to go to see a lawyer, Rives, in Birmingham; and, further, it has been stated that Rives was one of the regional counsel, but I respectfully submit that that would be stretching the law of agency, to say that by that imagination, he also became an agent of the Brotherhood of Railroad Trainmen.

Mr. Bowles, III: If Your Honor please, I think in the report of the evidence on page 29, Mr. Byington was asked, "By whom are you employed?" And he said, "By the Brotherhood of Railroad Trainmen."

Then he goes on to describe what his job is as general chairman of the Central Georgia Railway.

Mr. Stallard: I would like to respectfully tell Your Honor that that is a Brotherhood Railroad Trainmen locally, a lodge, which is affiliated with the Grand Lodge, but it really is only an affiliation by charter.

Mr. Bowles, Jr.: May I add to it, if Your Honor please, that Mr. Kennedy, in his deposition on June 1, said that Mr. Byington carried the same kind of card that Mr. Verbon and all the rest of the investigators did.

The Court: Any comment on that?

Mr. Stallard: No, sir, Your Honor, the only thing that I could say that the Brotherhood, the defendant, now, [fol. 275] and it has been testified to by Mr. Kennedy, will be testified to further here, that they have no investigators today, and it hasn't been proven that this man was one of our investigators.

Mr. Bowles, III: They have 1961 cards, though, Mr. Stallard.

Mr. Bowles, Jr.: And not only that, sir—

Mr. Bowles, III: And 1960 cards.

Mr. Bowles, Jr.: Your Honor will recall that the magic date is April 1, and Mr. Nelson this morning pointed out in one of these exhibits, that they were paying the salary of Mr. Clinkenbeard as lately as August of 1959, as a regional investigator of the Brotherhood.

The Court: Whose salary was paid?

Mr. Bowles, Jr.: Mr. Clinkenbeard's.

The Court: I can't catch the name.

Mr. Bowles, Jr.: Clinkenbeard, he was the one that was involved in the Lush firm, the same way that Mr. Tingle is for Mr. Savage, and they were paying his salary after the magic date. Their own records show that, from this morning.

The Court: Do you have anything further to say?

Mr. Stallard: Yes, sir, Mr. Clinkenbeard, I am informed, was on the payroll of the Railroad Brotherhood for certain [fol. 276] specific purposes, so that he would get his retirement at a certain age. That has no connection with Mr. Byington down in Georgia. I understand that he is employed, an employee of some railroad down there, and is

chairman, and I don't know that he is employed as an employee, paid employee, he certainly is an employee for the local Brotherhood there, and that would, in no way, by the stretch of imagination, say he would be on our payroll. That is guilt by analogy, it looks like to me.

Mr. Bowles, Jr.: Well, Your Honor, if we have got to go into this a little deeper, let's look at the actual facts.

The Court: Mr. Bowles, I am going to overrule the objection, and I am going to receive this in evidence as Plaintiff's Exhibit No. so-and-so, and I don't want to interrupt your statement, if you wish to make it further, for the record.

Mr. Bowles, Jr.: I just wanted to show you that Mr. Kennedy, President Kennedy, said that he was classed as an investigator.

The Court: I am perfectly satisfied that the connection has been sufficiently established, to make this admissible.

Mr. Bowles, Jr.: That's right, I have nothing further to [fol. 277] say.

(Byington Exhibit No. A, a record, was marked and received in evidence.)

Mr. Stallard: I would like the record to show that I except for the reasons stated.

Mr. Bowles, Jr.: Your Honor, it had been my intention at four o'clock to call Mr. Chase. I don't know whether he has been anxious to go away. It has been about ten or fifteen minutes we have spent here. I understand he is anxious to leave.

The Court: Where is your home, Mr. Chase?

Mr. Chase: Cleveland, Your Honor.

The Court: I can't go on after five o'clock.

Mr. Bowles, Jr.: I understand that, sir, but I am trying to accommodate Mr. Chase, but I do not want to interrupt my examination of him. I would prefer, Your Honor,—I am sorry I can't accommodate him, it now being 4:20, and I would prefer to go on with the presentation of these exhibits and take Mr. Chase tomorrow.

The Court: How long do you think the examination of Mr. Chase would take?

Mr. Bowles, Jr.: That depends entirely on what he has brought with him, sir, in response to the subpoena duces tecum, to bring all of the records.

(Discussion off the record.)

[fol. 278] Mr. Bowles, Jr.: Well, I understand, sir, that by the statement of Mr. Chase that he has not brought the financial records, that he has brought copies of them. I didn't ask for those under the subpoena, and I want the records.

The Court: I don't think we can go into that now.

Mr. Bowles, Jr.: I don't think so, either, but we want to know when you can get them here, Mr. Chase?

The Court: Proceed with the exhibits.

Mr. Bowles, III: I would like to introduce, Your Honor, a list of cases in Virginia, handled by the regional counsel, as heretofore filed by the defendant, as Exhibit 3-D in response to the first call, and I believe that should be Exhibit 67, Plaintiff's Exhibit 67.

The Court: Plaintiff's Exhibit 67 received and filed, identified, received and filed.

(Plaintiff's Exhibit No. 67, consisting of a list of cases, was marked and received in evidence.)

Mr. Bowles, III: The next one is the letter of October 12, 1949, to Tom Lewis, regional counsel in Atlanta, Georgia, from W. P. Kennedy, terminating him as regional counsel, and this was heretofore filed as Exhibit 5-B in [fol. 279] response to the second call of production of documents, and that should be 68, I believe.

Mr. Stallard: These are just records we have given you.

Mr. Bowles, III: That's right.

Mr. Stallard: They are perfectly permissible under the statutes.

The Court: Plaintiff's Exhibit 68 is identified and filed.

(Plaintiff's Exhibit No. 68, being a letter, was marked and received in evidence.)

Mr. Bowles, III: Next, Your Honor, is a letter of October 12, 1949, to W. P. Kennedy from Tom Lewis, accept-

ing termination heretofore filed by defendant as Exhibit 5-B. This was filed in response to the further call for production of documents as Exhibit 5-B.

The Court: Plaintiff's Exhibit No. 69, identified and filed.

(Plaintiff's Exhibit No. 69, a letter, was marked and received in evidence.)

Mr. Bowles, III: The next is a letter of October 12, 1949, to Tom Lewis from W. P. Kennedy, appointing him [fol. 280] regional counsel with the same territory, heretofore filed by the defendant as Exhibit 5-C, in response to the second call for production of documents and that should be Exhibit 70, I believe, Your Honor.

The Court: Plaintiff Exhibit No. 70, identified and filed.

(Plaintiff's Exhibit No. 70, a letter, was marked and received in evidence.)

Mr. Bowles, III: The next is a letter also dated October 12, 1949.

The Court: October 14, 1949.

Mr. Bowles, III: Excuse me, sir. —to W. P. Kennedy from Tom Lewis, regional counsel, in Atlanta, Georgia, accepting the appointment, and this was heretofore filed by the defendant as Exhibit 5-C, in response to the second call of production of documents, and I believe that should be Plaintiff's Exhibit No. 71.

The Court: Plaintiff Exhibit 71, identified and filed.

(Plaintiff's Exhibit No. 71, a letter, was marked and received in evidence.)

Mr. Bowles, III: The next, Your Honor, is a list of [fol. 281] various articles that have appeared in the publications of the Brotherhood of Railroad Trainmen, with reference to the Legal Aid Department, various regional counsels, and the cases handled by them, and this was heretofore filed by the defendant as Exhibit 4-C, in response to the second further call. That would be Exhibit 72.

The Court: This is Plaintiff Exhibit No. 72, identified and filed.

(Plaintiff's Exhibit No. 72, a list, was marked and received in evidence.)

Mr. Bowles, III: The next, Your Honor, is a page from the October, 1958 Directory, listing regional counsel, and was heretofore filed by the defendants as Exhibit 5 in response to the second further call. That should be Exhibit 73, I believe, Your Honor.

The Court: Plaintiff Exhibit No. 73, identified and filed.

(Plaintiff's Exhibit No. 73, a Directory, was marked and received in evidence.)

Mr. Bowles, III: The next is a page from the January, 1959 Directory, listing regional counsel, heretofore filed by the defendant as Exhibit 5 in response to the second further call. I would like to have that marked as 73-A, if I may, Your Honor.

The Court: Plaintiff Exhibit 73-A, identified and filed.

(Plaintiff's Exhibit No. 73-A, a page of Directory, was marked and received in evidence.)

Mr. Bowles, III: Next is a photostatic copy of the January '60 Directory. I would like that marked 73-B, if I may, Your Honor.

The Court: Plaintiff Exhibit 73-B is received and filed.

(Plaintiff's Exhibit No. 73-B, a copy of a Directory, was marked and received in evidence.)

Mr. Bowles, III: The next is the October, 1960, Directory. I would like that marked as Exhibit 74.

The Court: Plaintiff's Exhibit 74 is identified and filed.

(Plaintiff's Exhibit No. 74, a Directory, was marked and received in evidence.)

Mr. Bowles, III: As Plaintiff's Exhibit 74-A, the January 1961 Directory.

[fol. 283] The Court: Plaintiff's Exhibit No. 74-A is identified and filed.

(Plaintiff's Exhibit No. 74-A, a Directory, was marked and received in evidence.)

Mr. Bowles, III: As Exhibit 74-B, Your Honor, the April, 1961 Directory.

The Court: Plaintiff's Exhibit 74-B, identified and filed.

(Plaintiff's Exhibit No. 74-B, a Directory, was marked and filed in evidence.)

Mr. Bowles, III: As Exhibit 74-C, Your Honor, the July, 1961 Directory.

The Court: Plaintiff's Exhibit 74-C, identified and filed.

(Plaintiff's Exhibit No. 74-C, a Directory, was identified and filed in evidence.)

Mr. Bowles, Jr.: If Your Honor please, in the testimony of Mr. Kennedy, the president, taken June 1, in Cleveland, of this year, it appears that I requested the Directories for 1961, and I hand to the Court and request that this be identified, a letter of October 23, 1961, from C. R. Maher, [fol. 284] chief clerk, Department of Legal Counsel, a letter to me and a copy sent to Mr. Stallard, showing the source of the last three exhibits. I suggest you mark that 74-D, sir.

The Court: Plaintiff's Exhibit 74-D, identified and filed.

(Plaintiff's Exhibit No. 74-D, a letter, was marked and received in evidence.)

Mr. Bowles, III: I would like next to offer a letter of March 16, 1959, to all regional counsel from W. P. Kennedy, advising them to comply with the Illinois decision of April 1,—by April 1, 1959, heretofore filed by the defendant as Exhibit 3-A, in response to the first call for production of documents, and I would like that marked Plaintiff's exhibit 75, if Your Honor please.

The Court: Plaintiff's Exhibit 75, identified and filed.

(Plaintiff's Exhibit No. 75, a letter, was identified and filed in evidence.)

Mr. Bowles, III: As Plaintiff's Exhibit No. 76, the letter of March 17, 1959, from B. M. Savage, to W. P. Kennedy, acknowledging receipt of the Kennedy letter of [fol. 285] March 16, 1959, which is our Exhibit 75, in response to the second further call for production of documents.

The Court: Plaintiff's Exhibit 76 is received and filed.

(Plaintiff's Exhibit No. 76, a letter, was marked and received in evidence.)

Mr. Bowles, Jr.: That was previously filed as Exhibit 4-J, I believe.

The Court: 4-J, second further call for the production of documents?

Mr. Bowles, III: I would like to next offer in evidence the deposition of W. P. Kennedy, president of the Brotherhood, taken in the case of *Southern Pacific Company against Clifton Hildebrand*, et al., in the Superior Court of the State of California, Los Angeles County. I would like that marked as Exhibit No. 77.

The Court: Plaintiff's Exhibit 77 identified and filed.

(Plaintiff's Exhibit No. 77, a deposition, was marked and received in evidence.)

Mr. Bowles, III: I would like to next offer the deposition of J. R. Maher, chief clerk of the Legal Aid Department, [fol. 286] and now of the Department of Legal Counsel, taken in the case of the *Southern Pacific Company against Clifton Hildebrand*, et al., in the Superior Court of the State of California, Los Angeles County, as Exhibit 78.

The Court: Plaintiff's Exhibit No. 78.

(Plaintiff's Exhibit No. 78, a deposition, was marked and received in evidence.)

Mr. Stallard: I would like the record to show that I object to that, because it is a deposition taken in another case, and I don't know what is in it, or whether it would be admissible in this court, and I would like the record to show that I object to it.

The Court: Objection overruled. Exception noted in the record. I understand that this was the deposition of Mr. Maher, who, I believe, is the secretary of the Brotherhood.

Mr. Bowles, III: I would next like to introduce part of the record in the case of *Burnett against Southern Railway Company*, filed June 31, 1958, in the Circuit Court of Jefferson County, Alabama; all the copies being attached

together, consisting of the complaint, the amendment to the complaint, the amendment to the complaint as the last amendment, the answer to interrogatories, further answer [fol. 287] to interrogatories, and answer to supplemental interrogatories, as Exhibit 79.

The Court: Plaintiff's Exhibit 79 is identified and filed in evidence.

(Plaintiff's Exhibit No. 79, a partial record, was marked and received in evidence.)

Mr. Bowles, III: I would next like to offer the case of *Shoaf against Southern Railway*, filed March 10, 1961, in the Circuit Court of the Tenth Judicial Circuit Court of Alabama, the copies being all attached together, consisting of the complaint, the certificate of dismissal without prejudice on the motion of the plaintiff, dated June 23, 1961, as Exhibit 80, if Your Honor please.

The Court: Plaintiff's Exhibit No. 80 identified and filed.

(Plaintiff's Exhibit No. 80, the case of *Shoaf against Southern Railway*, was marked and received in evidence.)

Mr. Bowles, III: I would like to next offer the case of *Shoaf against Southern Railway Company, et al.*, filed July 13, 1961, United States District Court for the Eastern District of Virginia, Richmond Division, Civil Action No. 3313 now pending, consisting of complaint, as Exhibit 81.

[fol. 288] The Court: Plaintiff's Exhibit 81, identified and filed.

(Plaintiff's Exhibit No. 81, *Shoaf against Southern Railway Company*, was marked and received in evidence.)

Mr. Bowles, Jr.: Now, if Your Honor please, the complainant offers in evidence the following depositions which have been duly taken and filed in the Clerk's office.

The Court: You mean depositions taken in this case?

Mr. Bowles, Jr.: Yes, sir.

The Court: They are already part of the record.

Mr. Bowles, Jr.: All right, sir? May I enumerate them in the record, just for the purpose of saying which they are?

The Court: I never heard of it being ~~done~~, but you have permission.

Mr. Bowles, Jr.: We have been sort of using this as an index. It is the deposition of W. P. Kennedy, president of the Brotherhood, taken June 1, in Cleveland; deposition of Dewey C. McLaughlin, taken June 1, '61, in Cleveland; deposition of Clifford D. Olson and Mrs. Betté Olson, his wife, taken on June 15, 1961, in Rapid City, South [fol. 289] Dakota; deposition of Paul A. Hodges, taken on June 22 in Fairfield, Illinois; deposition of Charles William Clark, Jr., taken June 29, '61, in Philadelphia; deposition of Kenneth H. Gibson, taken on July 6, '61 in Clinton, Iowa; deposition of Gloria Ann Lomen, taken on July 6, in San Francisco, California; deposition of Elmo S. Lomen, taken July 6, 1961, in San Francisco, California; deposition of Virginia Lee Troxtell, taken July 13, in Indianapolis, Indiana; deposition of Edward Lawrence Troxtell, taken July 13, 1961, in Indianapolis, Indiana; deposition of James Garwood, taken July 28 in Hornell, New York.

Now, Your Honor, subject to a check, it is my considered opinion at this time, that with the exception of the testimony of Mr. Chase, whom we wish to call as an adverse witness, I believe that that is the complainant's case.

Mr. Stallard: Your Honor, to make the record clear, I want to make my motion to strike certain exhibits in the depositions, which have just been mentioned. If I could, I have furnished a copy of my motion to counsel for the plaintiff, and I would enter those motions now, because they refer to exhibits in President Kennedy's deposition.

The Court: Do you wish to be heard on those?

Mr. Stallard: Yes, sir, at this time.

[fol. 290] The Court: Well, I don't know about this time. You can be heard.

Mr. Stallard: Well, I am just passing up my motion, written motion.

The Court: I will hear you at such length as you wish. There are quite a number of them. I will take them one at a time, and I will hear all you have got to say about them, but not now. I will afford you the opportunity before the case is over.

Mr. Stallard: All right.

Mr. Bowles, Jr.: If Your Honor please, if I may draw the Court's attention to Exhibit 79, 80, and 81, Exhibits 79, the case of Beatrice B. Burnett, administrator, who sues Southern Railroad in behalf of her deceased husband, that is a case, as the pleadings show, of a Virginia accident, in which counsel appears, A. L. Rives, for the plaintiff. We have shown who Mr. A. L. Rives is, an attorney in Birmingham, Alabama, and that case was brought in the Jefferson County, Alabama Court.

Mr. Stallard: What exhibit is that? May I ask?

Mr. Bowles, Jr.: What good is it?

Mr. Stallard: What exhibit is it?

Mr. Bowles, Jr.: It is Exhibit 79. Exhibit 80 is the case of a resident of the State of Virginia, who was in- [fol. 291] jured at Blairs, Virginia, and who instituted suit in the same court in Alabama, with Mr. Lewis; Lewis, Lewis, Whaley & Cagle, of Atlanta, Georgia, as counsel, and also, Higgins, Windham, Perdue & Johnson, of Alabama, in the Alabama court. That case was dismissed, and Mr. Shoaf, *Roy P. Shoaf, against Southern Railway Company*, and Exhibit 81 shows that that case was rebrought in the Eastern District of Virginia. Shoaf against Southern Railway, and Searce; and counsel appearing on that complaint, Wilbur Allen of Allen, Allen, Allen & Allen, of Richmond, and the Tom J. Lewis, Jr., of the firm of Lewis, Lewis, Whaley & Cagle, of Atlanta, Georgia.

My son calls to my attention the fact that in the Burnett case, I may have said that the deceased was a resident of Virginia. The accident was in Virginia. He was a resident of North Carolina, just over the line at Danville.

The Court: Below Danville?

Mr. Bowles, Jr.: Just south.

The Court: South of Danville?

Mr. Bowles, Jr.: Just south of Danville. Now, I repeat, that is our case in chief, except for Mr. Chase.

The Court: Have you time for your motion before adjournment?

COLLOQUY BETWEEN COURT AND COUNSEL

Mr. Bowles, Jr.: I am ready to make it, sir, and in view of all the circumstances, I am perfectly agreeable to go [fol. 292] over to Thursday morning, if that is agreeable with counsel. I had said to Mr. Chase before, that in the early presentation of this case, that I would try to accommodate him to get away. We have been through that, sir.

The Court: Now, Mr. Stallard, I would like to hear from you about the motion that is made that we adjourn until Thursday morning at ten-thirty. I have a small matter at ten o'clock. What do you have to say about that?

Mr. Stallard: I do not oppose it, Your Honor. I have set aside the time this week.

The Court: So have I.

Mr. Stallard: And I do not oppose it.

Mr. Bowles, Jr.: Well, Your Honor, doesn't understand me to make a motion to continue it until Thursday. Off the record, we discussed the advisability of that, and I said that I was willing to do it.

The Court: What is your preference? I would like for you to express your motion, giving me your preference of when you want to reconvene.

Mr. Bowles, Jr.: Well, sir, I am in this difficulty. I would like as promptly as possible, to be able to examine Mr. Chase with the records that I requested him to bring by subpoena from this Court. The idea that I had in mind outside of the idea that I think was in the Court's mind, [fol. 293] was that maybe that would give him some time to get the records I requested, if he can do so, or will do so.

Mr. Stallard: That is the reason, Your Honor, I mentioned that if we took up that matter thirty minutes ago, it might be determined by Your Honor, that Mr. Chase couldn't deliver what counsel thinks he can deliver.

The Court: He says he is not under oath here, but he is going to make the statement under oath that he can't get them, is what he said.

Mr. Stallard: They are not under his direction; they are under the constitution, and I think that that can be very well ascertained by reading the constitution, but he

has what has come from that to him. He has it not as counsel would want it, but he has the summary of it.

The Court: Let me summarize the situation, Gentlemen.

Mr. Bowles, Jr.: May I say this to the Court before you do that?

The Court: Yes.

Mr. Bowles, Jr.: May I make it very plain what I want to find? You heard Mr. Nelson testify this morning that when he was at the Brotherhood's office in Cleveland that he got certain records showing what happened in the firm of Davis, Berat, Yeager & Lush, and he said that the same [fol. 294] kind of records were there in the possession of the Brotherhood at that time, for all the other regional counsel. Now, I want the ones about Mr. Savage to be brought into this court, and that is what I asked in the subpoena, and that is what I want him to produce.

The Court: I cannot take that up now. I am going to take up this question. It is more far-reaching. That can be handled at a later hour, five minutes before adjournment.

(Discussion off record.)

The Court: Now, Mr. Bowles, I summarize it this way: Except for the routine matters, and a few short matters, I have to interrupt this case. I have devoted my time to this case, and I propose to do it now. Now, in this situation, you cannot be here tomorrow morning?

Mr. Bowles, Jr.: No sir, I cannot.

The Court: You cannot, because you appear for another case. The Court will recognize that, and I want you now, sir, without any consideration, any suggestion I may have made off the record, to express your preference and a time to which the Court will adjourn. You will be in the Supreme Court of Appeals tomorrow morning. What time do you wish this court to adjourn to?

Mr. Bowles, Jr.: Well, Your Honor, that places me in somewhat of an embarrassment, in light of some of the [fol. 295] things that have been said off the record between counsel and the Court.

The Court: Don't pay any attention to what I have said. I was making suggestions that I thought would be considered. When do you want me to adjourn to?

Mr. Bowles, Jr.: I suggest that we go back to work at two o'clock tomorrow.

The Court: Is that agreeable, Mr. Stallard?

Mr. Stallard: Yes, sir.

The Court: This case then, will go over until two o'clock tomorrow.

Court is recessed.

(Whereupon, an adjournment was taken to tomorrow, at 2:00 p. m.)

[fol. 296]

October 11, 1961

Met pursuant to adjournment on yesterday, at 2:00 p. m.

The Court: Good afternoon, Gentlemen. I am ready when you are, Mr. Bowles.

Mr. Bowles, Jr.: Would you call Mr. Chase?

The Court: Mr. Chase, would you come up to the witness chair?

WILLIAM B. CHASE was duly sworn, and testified as follows:

Direct examination.

By Mr. Bowles, Jr.:

Q. Would you state your full name, age, and residence, please?

A. My name is William E. B. Chase, I am fifty-eight years old next month, and I live in Lakewood, Ohio.

Q. Mr. Chase, are you the secretary-treasurer of the Grand Lodge of the Brotherhood of Railroad Trainmen?

A. My title is the general secretary and treasurer of the Grand Lodge.

The Court: General secretary and—?

[fol. 297] A. General secretary and treasurer, Your Honor.

By Mr. Bowles, Jr.:

Q. You are here, sir, in response to a subpoena I believe, served on you to attend and served in person, while you were at Richmond, by the Sheriff on July 22, 1961?

A. Yes, sir.

Q. For the sake of the record, either refer to it, sir, or file it.

The Court: May I see the order?

Mr. Bowles, Jr.: This is not the subpoena duces tecum.

The Court: Oh, it is not?

Mr. Bowles, Jr.: No, sir.

The Court: I don't believe I entered the order. I think another judge entered that, in my absence.

Mr. Bowles, III: Judge Huntley.

The Court: Judge Huntley? I know I hadn't seen it.

INTRODUCTION OF PLAINTIFF'S CHASE EXHIBITS NO. A
AND B WITH COMMENTS OF BOTH PARTIES

By Mr. Bowles, Jr.:

Q. Would you file this, please, sir, as an exhibit with your testimony? I suggest we mark it Chase No. 1.

The Court: Are you going to make that part of the [fol. 298] record?

Mr. Bowles, Jr.: I am not sure.

The Court: I am not familiar with those rules.

Mr. Bowles, Jr.: We might as well make it a part of the record.

The Court: Chase A, marked and identified, Exhibit Chase A, identified and filed.

(Chase Exhibit No. A, a subpoena, was marked and received in evidence.)

By Mr. Bowles, Jr.:

Q. Mr. Chase, at the same time on July 22, 1961, when you were in Richmond, did you receive from the Sheriff of the City of Richmond what we call a subpoena duces tecum, which reads as follows:

"Commonwealth of Virginia, to the Sheriff of the City of Richmond: We command you that you summon William E. B. Chase to produce or make available for inspection, certain records, to wit: All financial records of the defendant, Brotherhood of Railroad Trainmen, relating to the Legal Aid Department, and the Department of Legal Counsel, and all audits thereof before our said Court at the courtroom thereof on the 9th day of October, 1961, at ten o'clock [fol. 299] a.m., and then and there to testify and the truth to say in a certain matter of controversy in our said court now pending and undetermined, in the Commonwealth of Virginia ex rel Virginia State Bar as plaintiff, the Brotherhood of Railroad Trainmen, et al as defendants, and have then therewith this writ and make return how you have executed the same."

Did you have that served upon you, sir?

A. Yes, sir, I did.

Q. Would you file that, please, as Exhibit Chase B?

A. If that is what you read, it is the same as I have.

The Court: This is the subpoena that was issued pursuant to the order, the first one you entered?

Mr. Bowles, Jr.: That is correct, sir. I expect to draw that to your attention next.

The Court: You are not going to file that as an exhibit, are you?

Mr. Bowles, Jr.: No, sir.

The Court: Go ahead, sir. Chase Exhibit identified and filed, Chase Exhibit B.

[fol. 300] (Chase Exhibit No. B, a subpoena, was marked and received in evidence.)

Mr. Bowles, Jr.: If Your Honor please, I bring to the attention of the Court at this time the order of the Court entered on October 21, which was the authority for the issuance by the Clerk of this subpoena duces tecum just introduced as Chase Exhibit B, to which is attached and filed the affidavit therefor, and which is already a part of the record.

The Court: July 21?

Mr. Bowles, Jr.: That's right, it was served the next day, sir.

The Court: I understand. July 21 was a Friday.

Mr. Bowles, Jr.: Mr. Chase, you have the copy of the subpoena duces tecum—I thought I noticed you comparing it while I read it?

A. Yes, sir, I have, and I just read it while you were reading yours.

Q. Do you have with you the papers that I requested?

A. Well, Counsel, I don't know what papers you want. In other words, I have with me the copies of our audit that [fol. 301] were available from 1954 to date. For the benefit of the Court, Your Honor, I don't have any jurisdiction whatsoever over the Legal Aid Department or the Department of Legal Counsel, as it is now called. The audit that we make—and I have a copy of the certified Ernst and Ernst auditors, last year, 1960—just takes the Legal Aid Department as a whole; and I understand, and didn't know until I reached this Court, that there was any subdivision or any other audit of books. All we have is a lump sum amount of monies that went into the Legal Aid Department, and we can show you the monies that were collected by them, that were turned over to my department during those years; the expenditures; and we can show you today that that same department is \$85,000 in the red in our set of books.

As to the advisability of bringing all of those ledgers, I don't know whether that would be feasibly possible or not, but we want to cooperate in every way possible with the Court, but it is just a matter over which I know nothing about. I don't have any jurisdiction over the Legal Aid Department or the Department of Legal Counsel, and I can read to you from the constitution that will show you that the request, evidently made by counsel, isn't within my jurisdiction.

Mr. Bowles, Jr.: Well, before we get to all of that [fol. 302] explanation, sir, would you answer these questions for me? The subpoena reads as follows:

"That you produce or make available for inspection certain records, to wit: All financial records of the defendant Brotherhood of Railroad Trainmen relating to the Legal Aid Department and the Department of Legal Counsel."

Now, did you bring with you, or have you made available for our inspection, all of the financial records of the Brotherhood of Railroad Trainmen relating to the Legal Aid Department and the Department of Legal Counsel?

A. I have for the periods that were available.

Q. Have you got the original records of the Brotherhood of Railroad Trainmen relating to all of the financial transactions of the Legal Aid Department and the Department of Legal Counsel?

A. No. I just told the Honorable Judge—

Q. I want to get it straight, now why you didn't do it, but you haven't got them, have you?

A. I don't have any authority—

Q. I didn't ask you that. You have not got them, period?

A. You are asking me to do something I can't do.

Q. I didn't ask you that. Did you or did you not bring [fol. 303] them—period?

A. I brought a copy of the records to date that we have available, yes, sir.

Q. Did you bring the originals—period? Will you say yes or no?

A. I didn't bring the originals.

Q. Now, did you bring the original audits of those records made by your auditors? Now, answer that yes or no, sir, because I am going to ask you about your reasons for it later.

A. Outside of one which is the original audit by Ernst and Ernst, I brought copies of our ledgers which can be certified or notarized or sworn to or anything as being legitimate.

Q. You have not brought with you here the things that are specified on the paper that was served on you, have you? Now, whatever your reason may be for not doing it, you haven't done that?

A. Well, you are asking me to do something impossible.

Q. I didn't say that, sir. But you haven't done that?

A. I haven't been able to.

Q. The answer is "no"?

[fol. 304] A. I haven't been able to, no. That's right.

Q. Now, let me ask you this. I point out to you in the constitution of the Brotherhood of Railroad Trainmen, which is Exhibit 1-A and 1-B, whichever one you choose to look at. In Section 9 at page 10 of the copy that was furnished by the Defendant as Defendant's Exhibit No. 2 in answer to the second further call for production of documents, and is now marked as Exhibit 1-A in this proceeding, the following, which I read:

"Duties of the President.

"It shall be the duty of the President to devote his whole time to the interests of the Brotherhood; he shall preside at all sessions of the Grand Lodge, and shall perform its executive duties when the same is not in session, and he shall exercise a general supervision over the affairs of the Brotherhood. He shall have authority to call a special session of the Grand Lodge at any time, or upon request of a majority of all lodges as provided in Section 24. If occasion requires, he shall have power to appoint deputy grand lodge officers to represent the Brotherhood.

"He shall be empowered to adjust all grievances referred to him in conformity with the general rules; he shall interpret all laws pertaining to the Brotherhood, and shall decide all controversies and appeals referred to him by subordinate lodges or members thereof.

"Such decisions shall be final unless reversed by the Board of Directors or Board of Appeals at their first meeting after such decisions have been rendered, and when such decisions have been rendered, it shall be the duty of the president to use all the authority and power vested in him to have the decisions placed in effect; he shall grant and sign all charters and dispensations emanating from the Brotherhood, and shall be jointly responsible with the general secretary and treasurer for the disbursement of all funds from the treasury of the Brotherhood."

Now, that last sentence I read to you, that general secretary and treasurer; that is you, isn't it?

A. That's correct.

Q. And you and the president are jointly responsible for the disbursement of all funds from the treasury of the Brotherhood, are you not?

A. That is correct.

Q. Now, sir—

[fol. 306] A. But you should turn over to page 12, and Section 12.

Q. That is exactly what I am going to do.

A. And you will read there—

Q. Well, would you mind letting me read it?

A. Be happy to.

Q. Now, turn to page 12 where the duties of the general secretary and treasurer are set forth in Section 12:

"It shall be the duty of the general secretary and treasurer to devote his whole time to the interests of the Brotherhood; he shall keep a true and correct record of all proceedings of the Grand Lodge; he shall read all petitions, resolutions and communications submitted to that body, and file and safely keep all important papers, seal all charters and dispensations emanating from the Brotherhood. At each quadrennial meeting of the Grand Lodge, he shall submit a complete report of the receipts and expenditures of all funds during the quadriennial period, the membership of the Brotherhood with the number of deaths, expulsions, and withdrawals; also, a report of the lodges organized and disbanded, and all other matters pertaining to his office.

"He shall receive all money due the Brotherhood on [fol. 307] assessments levied by it as hereinafter provided, and otherwise, and issue receipts for same.

"He shall be the custodian in conjunction with the President and Board of Trustees of the funds and property of the Brotherhood."

Now, that is you again, isn't it?

A. Yes, but there is a little variance between your interpretation and as to the actual working of the law.

Q. The variance? I can't hear you, sir. Would you mind repeating that?

A. I say there is a variance between your interpretation and as to how the law, the Brotherhood, operates. This Article from 17 down on page 13, line 17 down, says "he shall receive all money due the Brotherhood on assessments levied by it as hereinafter provided," and the only assessment we can levy under the constitution is one that is granted us by convention action. To my knowledge, there is no convention action setting up the Brotherhood or the Legal Department. We don't have any control of it. All we accept is the monies that they give us, and we, in turn, issue checks that are asked of us to prepare.

Q. Now, would you read the next two words after what you read, "and otherwise"? What significance do you give to those two words?

[fol. 308] A. Well, probably the funds that you are talking about are the "otherwise." Any fund that comes into the Brotherhood comes into our auditors. Our general auditor advises me that he doesn't at any time know anything about the Legal Aid funds, other than what is given to him in a lump sum, Your Honor, and then if there is money requested, we disburse it, but I have no personal knowledge of it, because any check under \$2,000 can be handled by our Auditing Department.

Q. Do I understand you to take the position, now that the Legal Aid Department is so separate and distinct that you, as the general secretary and general treasurer, you not only have no knowledge of what they are doing about money, but you have no way of getting any information about what they do about money, and that you haven't either the knowledge or the power to get that knowledge; is that the position you take?

A. Well, I am telling you—you say I am "taking the position"; I am telling you the truth, as general secretary and treasurer of the Brotherhood, I don't have anything to do with the Legal Aid Department. In these statements that our Auditing Department prepared, we show the monies that were turned over to our bookkeepers during the years 1954 to date. We show the money disbursed. There is no notations, there is no divi-

sion of who it was collected from; who it goes out to, and until I came in this court, I didn't even know that there was such a document as you had—you showed me during the trial, when you enumerated these funds, how they were broken down. That is the first knowledge I had of it.

Q. Now, Mr. Chase, I want to preface my next question with an understanding between you and me that I don't agree with what you have said, but assuming for the sake of this question that it be true and correct, I want to ask you who is the person that can—that I can serve a subpoena on that would give me those records, if I want?

A. I imagine that it would either be the president or the chief clerk of the Legal Aid Department.

Q. Who would the chief clerk of the Legal Aid Department be?

A. Mr. C. R. Maher.

Q. Mr. C. R. Maher?

A. Yes, sir.

Q. I believe that we requested his presence here, and we were advised that he was so ill, he could not appear in court. Is that a fact?

A. He has had a heart attack, yes, sir.

Q. And Mr. Kennedy has testified in his deposition [fol. 310] that he was so ill that his doctors wouldn't permit him to come here; is that true or not?

A. To my knowledge, it is. He didn't tell me that.

Q. It is what?

A. I say, to my knowledge, that is correct.

Q. I see. Now, what is Mr. Maher's position?

A. Well, he is the chief clerk of the Legal Aid Department, and he reports only to the president of the Brotherhood. He doesn't report to me, other than the fact that under the law, I pay him his salary due, which is also collected.

Q. You mean to say now that the chief clerk of the Legal Aid Department doesn't tell you anything about the financial operations of the Legal Aid Department?

A. At all?

Q. At all?

A. Yes, sir, I will vehemently say that. I know nothing about it whatsoever.

Q. Very well. I have these questions to ask you, again on the same assumption. You received this subpoena on the 22nd day of July; is that correct? You have already said it was.

A. Whatever the day was, that is right.

[fol. 311] Q. Yes. You were then aware, according to your present statement, that these records, as you say, were not under your control, but were under the direct control of President Kennedy; is that correct?

A. I think that would be a correct statement.

Q. What have you done between July 22 and now in regard to a conference with President Kennedy as to how you were going to get them down here, or whether you could bring them?

A. Well, I don't know what subpoena you served on the president. I have discussed the case with him several times. My auditor is the one that keeps my records. Our general auditor, he is the one I counsel with in respect to the records and that is where I got the records from that I thought was—

Q. Did you take up this subpoena with President Kennedy?

A. Did I take it up with him personally?

Q. Yes.

A. We discussed it.

Q. Did he know that you were subpoenaed to bring these records here?

A. That I couldn't tell you.

Q. Did you show him the subpoena?

[fol. 312] A. No, I didn't show him. I showed general counsel.

Q. I ask you this, Mr. Chase: Weren't you and President Kennedy both discussing, when you were here on July 21, 22, that you had both been served with subpoenas, and that you had to come and that you had a subpoena duces tecum? Didn't you tell him that?

A. I told him that, yes, sir.

Q. Yes, of course you did. And you walked around the John Marshall Hotel waving it in the air, and you were mad about it, weren't you?

A. No, I wasn't mad about it, and I wasn't waving it in the air.

Q. Now, Mr. Chase, I want to ask you this question, and I want a very simple answer to it: Did Mr. Kennedy tell you that you could or could not bring these papers in response to this subpoena?

A. He didn't tell me anything about them.

Q. Did you ask him for the permission to bring them?

A. I didn't know what papers you wanted. I went to my Auditing Department, and my Auditing Department gave me the records we had.

Q. I will go back, if you don't know what we wanted, and see if you understand what these words said: "All [fol. 313] financial records of the Defendant Brotherhood of Railroad Trainmen relating to the Legal Aid Department and the Department of Legal Counsel."

Now, you and President Kennedy both understood what records we wanted, didn't you?

A. I told you once before that I didn't know there were any other set of records other than the ones we had, so how could I talk to the president about it?

Q. Let's get back to the starting point. Would you explain to me what your understanding of those English words are, "All financial records of the Defendant Brotherhood of Railroad Trainmen relating to the Legal Aid Department and the Department of Legal Counsel"? Now, what do you think that means?

A. I brought that—just what I have control over.

Q. What do you think those words mean?

A. I don't know. I gather from being at this trial of hearing that you probably wanted—now, I can see that you wanted a broken-down record of what the contributions were made. I don't have them. I have no way of getting them. We don't have any record of it.

Q. Let's stick to the point that I am asking you, please, sir. The 22nd of July, you were here on attendance of a several-day conference, were you not?

[fol. 314] A. That is correct.

Q. Mr. Stallard was there at that conference, was he not?

A. No, I don't think he was.

Q. You didn't see him there?

A. He made an appearance, and that was all.

Q. Yes. Well, you knew he was representing you in this case?

A. At that time, I don't know whether I did or not. I probably did.

Q. Well, did you know you had a general counsel named Mr. Henslee?

A. He isn't our general counsel, sir.

Q. Well, what is he?

A. He's a—

Q. He appeared in one of these proceedings marked as general counsel.

A. Well, you got the two Henslees mixed up. That was Edward Henslee, Sr., used to be the general counsel. The general counsel of the Brotherhood now is Wallen K. Sullivan.

Q. Well, did you, on July 22—I understand your testimony to the chancellor is that you were served with this subpoena, but you did not understand what those words meant; is that correct?

[fol. 315] A. (No answer)

Q. (Continuing) Well, say yes or no. Did you understand it or not?

A. That isn't a correct way to answer it. I was served with a subpoena. I took this to my auditor, who audits and has strict control of our funds, and asked him what he had in the way of his audit, and that is what he gave me. That is all I can give you.

Q. Mr. Chase, don't let's make this struggle more difficult than necessary. You have testified you didn't know what records we wanted; is that correct—by these words?

A. Well, you are trying to misconstrue my words. I told you that after being in this court, that I can see that you wanted records that I didn't have at that time.

Q. I am not talking about what you thought today in court.

A. When I took that record back, I asked our auditor for those records, and he gave me an exact copy of the records we have available, which I have brought with me.

Q. I have asked you this simple question, and I would ask you to answer it, please, sir. Did you understand from

this subpoena and the words contained therein which I read to you, "All financial records of the Defendant Brotherhood [fol. 316] of Railroad Trainmen relating—" Do you understand what the word "relating" means?

A. I think I do, yes, sir.

Q. (Continuing)—relating to the Legal Aid Department and the Department of Legal Counsel." Now, do I understand you to say that having read those words, on July 22, you did not know what they meant, and did not know—

A. (Interposing) After—

Q. (Continuing) —wait a minute, please, sir. Let me finish.

A. After reading those words, that is what I brought down in our department.

Mr. Stallard: Your Honor please, may I interpose an objection here? The witness says he has brought what he has relating to the Legal Aid Department, and if we saw it, it may be sufficient.

The Court: That could be possible.

Mr. Bowles, III: It couldn't be.

Mr. Bowles, Jr.: If Your Honor please, they are admittedly not originals.

Mr. Stallard: He says he has the audit from Ernst and Ernst.

Mr. Bowles, Jr.: That isn't what I asked him for.

Mr. Stallard: He says he has the record, all he has. [fol. 317] The Court: What you want are facts, Mr. Bowles. The Court will do all it can to aid you in getting such records as you want.

Mr. Bowles, Jr.: Exactly, sir, and I am trying to get this gentleman to tell me and I will ask you again:—

By Mr. Bowles, Jr.:

Q. When you didn't understand this, did you inquire of either the president or did you inquire of your general counsel, Mr. Sullivan, or whatever his name is—wait a minute, please—did you inquire of Mr. Stallard? Did you make any inquiry to determine what the records were of the Legal Aid Department and Department of Legal Coun-

sel showing its financial transactions, knowing yourself that you didn't know anything about them? Now, did you do that?

A. I discussed it with Mr. Stallard. I don't know how I would discuss it with the president, because our department keeps those records. We have a volume of business amounting to twenty-three, twenty-five million a year. I am not familiar with each detail. I told our general auditor I wanted what records we had as you put forth in that—whatever you call it—subpoena, in connection with the Legal Aid Department. He gave me that record, the ones that [fol. 318] we have available from 1954 to date.

Q. Then I understand correctly, now, that you did discuss this subpoena and its requisites with Mr. Stallard, with President Kennedy, and also your general auditor?

A. No, I didn't say I discussed it with Mr. Kennedy.

Q. With who?

A. I didn't say I discussed it with Mr. Kennedy.

Q. Well, he is the only man, according to your contention, that could have given you authority to bring them, isn't he?

A. Well, of course, you are taking for granted that I knew what you wanted, and I am telling you that I didn't know what you wanted, according to what you are asking me. I brought you the records I had in my office, which is all that I knew anything about, and I wouldn't have any occasion to ask the president of the Brotherhood about it.

Q. Mr. Chase, I am just trying now with great difficulty, to get this very simple question settled between us before I undertake to see what you brought. You admit that when you got the subpoena, you didn't know what was wanted. I am trying only to find out now, with your familiarity as the general secretary and general treasurer, as to what efforts you made with the people in your own organization, [fol. 319] to see whether or not they could throw any light on what you might possibly want.

A. I have told you, sir, several times, that when I took them back, when I got the subpoena, I thought it was a subpoena, of course. I took it back to my auditor. I asked him, and I wanted those records, and that is what he gave me.

Q. And you asked him to give you what he had instead of what the Brotherhood had; is that correct?

A. I have no authority to speak for the Brotherhood.

Q. Aren't you the general secretary who is the custodian of all its financial records?

A. Yes, sir—no—wait a minute. Now, you're—

The Court: I think, Gentlemen, we have gone far enough along in this line. The Court is interested in the merits of the case, and if there are records that you want that are not available, the Court will use every possible effort to give you what you are entitled to. Now, let's see what he has got, and what you need to satisfy what you want.

Mr. Bowles, Jr.: All right, sir. Well, he's already told me that he hasn't got what I want. Now, what I want, sir, is—

The Court: I think we have gone far enough along for [fol. 320] this record to disclose to anybody what the situation is. Here's a subpoena, an order upon which the subpoena is based, calling for all financial records of the Defendant Brotherhood Railway Trainmen, relating to the Legal Aid Department or the Department of Legal Counsel, and all audits that are material and proper to be produced; that said records and papers are in the custody of William E. B. Chase—

The Witness: That is exactly what I brought, Your Honor.

The Court: The witness says that he has produced all the records of the Brotherhood of Railroad Trainmen that are in his custody, or that he has the control of. Now, if there is a misunderstanding, let's clear it up. I don't think further exploration along this line is helpful to the case.

Mr. Bowles, Jr.: Well, Your Honor, please, I would ask the Court under the circumstances, to order the defendant to produce the records that I have requested.

The Court: Well, I don't know which ones you have requested. Let's get at it this way, if you will. If I understand it, I am not sure that I do, but if you help me, I will try to understand you. You have obtained and put into this record through the witness, Mr. Nelson, certain partial things—some, I might say, scattered pages, photo-

stats of scattered pages. You have got in this record already—I am not certain how much you have got—but you have got contributions made by Savage. I understand he is the one you are mainly interested in.

Mr. Bowles, Jr.: We do not have all of the records on that, sir.

The Court: I know. I know you haven't, but you have in this record the contributions by Savage to the Legal Aid or Department of Legal Counsel—this is Legal Aid, for the years '53, '54, '5, '6, '7, and '8 but detail already.

Mr. Bowles, Jr.: I do not have them for '59 or '60, nor do I have any records of the regional investigators, which Mr. Nelson said that he saw them, himself, and may I remind the Court that twice before in this proceeding, we have called for these exact records, and they have not yet been produced.

The Court: I am not certain that this subpoena that is issued and pursuant to this order, specifies these exact [fol. 322] records, sir.

Mr. Bowles, Jr.: No, sir, but if I specify all of the financial records, they are bound to be in there, if he produced them all. The ones I want would have to be there.

The Court: If they are records of the Brotherhood, in the custody of the general secretary and treasurer. That is all coupled up, isn't it?

Mr. Bowles, Jr.: I have just read to Your Honor, under this constitution, he is the man responsible for all of their receipts and disbursements of the whole Brotherhood.

The Court: Well, he says he has an audit of the Brotherhood.

Mr. Bowles, Jr.: I didn't ask him for the audit of it. I asked him for the original records.

The Court: Well, if you looked at what he has got, it may be beneficial, and give you at least part of what you want, Mr. Bowles. The Court is going to aid you to the best of its ability.

Mr. Bowles, Jr.: Well, sir, I just happen to know—well, I will desist.

The Court: We don't get anywhere by personal matters, or—

[fol. 323] Mr. Bowles, Jr.: But, Your Honor, we asked for originals, and he brings me copies. I don't think he is in compliance with the subpoena, and I don't see why I should have to look at the copies to see whether I should be satisfied with them, instead of the originals.

The Court: Was it in this case, Mr. Bowles, or some other I had before me, the records of some of these corporations; all the financial records would take several box cars to bring. It is wholly impractical.

Mr. Bowles, Jr.: That is not true here. Mr. Nelson has testified that there were three books. That is all—Book 1, Book 2, Book 3.

The Court: You called for all the financial records of the defendant relating to Legal Aid that are in his custody, without any limit in time, and I don't know, but we are not getting anywhere. You tell me what you want, and if it is available, I will see that you get it.

Mr. Bowles, Jr.: Well, I said yesterday evening to the Court and to these gentlemen, on the record, exactly what I did want; what I wanted with relation to the remaining [fol. 324] regional counsel, remaining regional investigators for the same period of time, the same thing that Mr. Nelson had said was in existence at the time he took out one relating to one firm. I want the rest of that. I want to see those volumes, and I don't see why I can't see them, and that is exactly what these gentlemen are bound to have known is what I wanted.

The Court: Well, there is quite a difference of opinion about "bound to know." You may be perfectly certain you are right, but it is perfectly possible you are not altogether right. I am just here trying to get the facts. Now, Mr. Stallard, you do understand now what he wants?

Mr. Stallard: Yes, sir, and I am not sure we can furnish it to him. I understand they had two break-ins up there, and I am not sure we can. I don't know. I cannot say that positively.

The Court: They were there when Mr. Nelson saw them.

Mr. Stallard: He saw some, but he doesn't know what they were. Now, we furnished counsel with a whole lot of financial records here; tremendous financial records, have

[fol. 325] already been furnished to him—what payments have been made on cases.

The Court: He is being very specific now, regardless of what he has said in the subpoena. He is quite specific now about what he wants, and if you look at the exhibit—can you give me the number of the exhibit that Mr. Nelson filed, which are certain pages by number and certain left out?

Mr. Bowles, Jr.: That is correct. Mr. Nelson spelled it out. You remember, he skipped from page to page. I want the intervening pages.

The Court: That is exactly what I said, Mr. Bowles. Give me a chance.

Mr. Bowles, Jr.: I beg your pardon. I will just sit down.

The Court: If you will give me the number of the exhibit, that may be helpful.

Mr. Bowles, Jr.: That is what I was undertaking to do. They are written down there. She can find them.

(Note: Mr. Bowles is referring to Miss Moten, the secretary.)

Mr. Stallard: Mr. Nelson made reference from Book 1, and similar records he took '53, '54, '55, '56, '57, '58. [fol. 326] He cut off February 12, '59, Bernard Savage contributions.

The Court: Yes. I commented on that.

Mr. Stallard: He gave those; and that came in Book 1, Your Honor. Now, as I understand, does he want those—Savage's—does he want Hildebrand?

The Court: Well, we will look and clear this up in just a minute what he wants. Let's get this exhibit.

Miss Moten: I have that "Pages, Book of Regional Counsel. Pages from the book of the Regional Counsel, payroll sheets." Payroll sheets is 2, Judge.

The Court: The pages are the first one. The next is numbered 25.

Mr. Bowles, Jr.: They are numbered Nelson A, B, C, D, E.

The Court: Here. "Payroll sheets." I am looking at the Nelson B. now, 25, 26.

Mr. Bowles, Jr.: They are not numbered by numbers, sir. They are numbered—

The Court: Some of them are numbered, and some not, I am looking at one that is numbered 25; another one numbered 27, and then number 29.

[fol. 327] Mr. Bowles, Jr.: They run Nelson A, B, C, D, E, F, G, H, I, J, K, L, M, N. Those are the exhibit numbers as they were entered into the record.

The Court: I am looking at Nelson Exhibit D, and I am referring to the numbers of certain pages that he picked out, and took photostatic copies, or had them taken for him. I see the numbers 25, 29, then 79, then 83, and then 99, and then 101, 107, 109, 111. Now, this was taken—I don't recall what book this was taken from. I will pass these over to Mr. Bowles, please.

Now, Mr. Nelson picked out from another source photostatic copies made of the account with Investigator Clinkenbeard.

Mr. Bowles, III: There were some forty-nine other investigators, Your Honor, besides the man, Clinkenbeard.

The Court: Those, you want?

Mr. Bowles, III: The other forty-nine, yes, sir.

The Court: You want to get full information of the details of the facts that Mr. Nelson was able to give you in part; is that right?

Mr. Bowles, Jr.: That is correct, sir.

[fol. 328] Mr. Bowles, III: Like we started back in the first part of 1960, when we first asked, and you remember, we spent a whole day up here, Your Honor, going over the fact that they gave you page 1, and left out page 3 of everything we got the first time.

The Court: No, I don't recall that.

Mr. Bowles, Jr.: May I suggest this to the Court, that when we undertake to talk about what Mr. Nelson brought into this case piecemeal from a book which he designated as Book 1, Book 2, and Book 3, now I call your attention to the fact that his records, and the time when he is examining them was in 1958. I want the books for '59 and '60 and '61, as well.

Mr. Stallard: I beg your pardon, he was there. He cut off on February 12, 1959, and even went into August of '59 one place.

Mr. Bowles, Jr.: Well, I want the ones from August on through to December, '59, for all of '60, and the ones up to October 7, 1961.

The Court: Mr. Chase, are you able to tell us, do you know anything about the records from which these were taken?

[fol. 329] The Witness: Your Honor, I want to be helpful to the Court. Just as sure as I am sitting here, it is the first time I ever heard of them or saw them, is when I walked into this court either yesterday or the day before. I don't know where they are. I have no way of getting the records of the Brotherhood insofar as the Legal Aid Department. I have them from '54 forward.

The Court: I was asking for information about the books. You don't know anything about them?

The Witness: I don't know a thing about them.

The Court: Do you, Mr. Stallard?

Mr. Stallard: No, sir, I do not. I have never been in the department. I understand Mr. Chase has only been secretary and treasurer one year, so he has not gotten—

The Court: Where are the headquarters of this Legal Aid?

The Witness: The department? I have 194 or -6 employees under me, Your Honor. We have the thirteenth, fourteenth floors of the Standard Building.

The Court: Is that where the Legal Aid Department is?

The Witness: No. Department of Legal Aid is on the [fol. 330] twelfth floor, and the president's department is on the sixteenth floor.

The Court: Same building?

The Witness: Same building, yes, sir.

The Court: And Mr. Nelson, when he got these, was in the Legal Aid Department?

Mr. Stallard: Legal Aid Department. He said Mr. Maher gave them to him.

The Court: How do you spell that name?

Mr. Stallard: M-a-h-e-r.

The Witness: No, sir, it is M-a-h-e-r. He calls it Maher (pronounced Mayer), but it is Maher (pronounced Ma-her.)

Mr. Stallard: I have a doctor's certificate here. He had a heart attack.

Mr. Bowles, Jr.: He wrote me a letter on October the 3rd, sir; that is the reason I put it in.

Mr. Stallard: Well, he can write a letter but he has got a heart attack now.

Mr. Bowles, Jr.: Well, I suggest, sir, that he could assemble the papers, and give them to Mr. Chase, if he is unable, from a physical disability, to come here.

Mr. Stallard: If I am determined, I will go up there [fol. 331] myself.

The Court: What is your motion?

MOTION FOR ADJUDICATION IN CONTEMPT AND
RULING THEREON.

Mr. Bowles, Jr.: My motion, sir, is to hold this defendant in contempt for failure to respond to this subpoena.

The Court: And administer what punishment?

Mr. Bowles, Jr.: Direct him to respond again to the requirement of the call which we made, which is paper No. 6 in this proceeding, and also the subsequent call, which I think was filed, and the order which Your Honor entered, yourself, on May 11, 1960, directing that these records be produced. And not only have we asked that twice—

The Court: I would like to see that order.

Mr. Bowles, Jr.: (Continuing) —not only have you ordered it to be produced now, we have a subpoena for its production, and they are not here, and that is, we submit—

The Court: I understand they are not here, Mr. Bowles. I asked you not to keep on repeating the same thing, because I hear the first time you say it.

Mr. Bowles, Jr.: I think my position is clear to the Court. I am saying nothing further.

[fol. 332] The Court: If this gentleman is in contempt, he should be punished, and you move that I punish him?

Mr. Bowles, Jr.: Yes, sir.

The Court: To what extent?

Mr. Bowles, Jr.: Well, as far as I am concerned, you can put him in jail until he brings them.

The Court: If that is a sufficient answer to consider, this is a call for production of documents, is that the order?

Mr. Bowles, III: Paper No. 7 is the order. I am sorry. Paper No. 7 is the order.

The Court: I have No. 6. It calls for production—that would be No. 7.

Mr. Bowles, III: That would be the order, and the questions are No. 12 and No. 17, 17-A and 17-B, Your Honor.

The Court: Paper No. 7; 17. "A list of all regional counsel and legal counsel who have within the period of five years next preceding the institution of this suit on June 29, 1959, contributed any sum either to the Legal Aid Department or to the Department of Legal Counsel or both"—I am skipping some. "The amount of contributions, a list of claims of litigated matters on which contributions are made, name and address of claimant, the railroad location and so forth." That is really what you want now?

Mr. Bowles, III: And they told us at that time, that they did not have that, Your Honor, and then we find out through Mr. Nelson, by going to Nebraska, that they do.

Mr. Bowles, Jr.: Your Honor, and furthermore—

Mr. Stallard: (Interposing) Your Honor, read the answer—

The Court: I have to read the answers. I think it is a good suggestion. I will read the answer which you made to 17.

Mr. Bowles, III: The answers are in paper No. 12, Your Honor.

The Court: 17, I believe was the number. The first call in 17 is for a list of all regional counsel and legal counsel who have, within five years preceding June, '59, contributed any sum to the Legal Aid Department or the Department of Legal Counsel. The answer to that: "There were no such contributions made per case."

Mr. Bowles, III: Your Nelson Exhibits I and J show that there were, sir.

[fol. 334] The Court: "That they were made for an aggregate of cases over a period."

Mr. Bowles, III: No. That is Nelson Exhibit A. We introduced the two separate cases, I believe. I believe they are I and J.

The Court: Pass this to Mr. Stallard, please.

Mr. Bowles, III: If Your Honor please, in the answer in 17, you will note that they say that the amount contributed by Mr. Savage for 1954 is not available. Yet, Nelson Exhibit A gives us the amount contributed by Mr. Savage in 1954.

The Court: The answer to that call, Mr. Stallard, which are filed by the affidavit of Mr. Maher: "There are no such contributions made per case."

Mr. Stallard: I understand. We have here, Your Honor, something taken direct from the lawyer, and it is his ledger, and he sets up on all amounts, on his books, as I understand it, they make it—they figure up at the end of the year—they only can file at the end of the year, because they don't know what percentage of business is being done by sixteen people, so they will work out, say, twenty-three, and it came out yesterday to Henslee; one to so-and-[fol. 335] so; to six percent; so it is all at the end of the year. This is a lawyer's register sheet, not our ledger sheets at all.

The Court: It was obtained by Mr. Nelson from your offices, I believe.

Mr. Stallard: No, Your Honor. I think this was gotten—this is Davis, Rerat, Yaeger and Lush. This is gotten in a suit against them, too, and I don't understand it at all, that it came from ours. This says the settlement shows the amount of money they got for "performing, adjusted attorney's fees, less monies advanced, less loans, check to Donald Bauer; fee twenty-five percent, extra expenses, Klein; special investigation expense."

The Court: No contributions there?

Mr. Stallard: No, sir, no contributions.

Mr. Bowles, III: The overhead expense, the twenty-five percent overhead expense is the contribution.

Mr. Stallard: Well, at the end of the year—

Mr. Bowles, III: And you can take Exhibit 38 through 66-E, and in each batch of those correspondence is a lot of letters of Mr. Savage returning that to the Brotherhood. [fol. 336] Mr. Stallard: No, Your Honor, if you take the exhibits that have been filed here, the way I understand it, the way the department would figure it out, let's see—here's a letter to Mr. Savage from Maher. He tells him, he says, "I settled on September 11, 1953." It looks like it could be '56. He says, "wished to advise that the case was settled today for \$3,750, Brother so-and-so received \$2,812, with which he seemed very well pleased, returned to work May 15, having lost forty-seven days," but he doesn't remit any fee at that time, but the department has what he settled that case for, so at the end of the year, they would issue a bill on his percentage, his pro rata share, like the pleadings show.

The Court: You have a record of that, haven't you?

Mr. Stallard: We would have a record; only, as I understand it, it was brought out yesterday, they would add all of these up, and see what percentage Savage would owe the department at the end of the year. Until the whole year went through, they wouldn't know what percentage to charge.

The Court: You have the contributions made by all regional counsel at the end of each year in question? [fol. 337]

Mr. Stallard: I am assuming that we do. I will be glad to go up to the department, myself. I have never been in it, but I would be glad to go up, and see what I could find. I just don't know whether we have them or not, but it is not exactly that each as it is settled, because you wouldn't know that—it couldn't be figured out that way.

Mr. Bowles, Jr.: Your Honor, I have to call Your Honor's attention to one of these exhibits by Mr. Nelson, in which it is a running account from the Brotherhood's books of each lawyer, and he only got the Rerat one, showing case by case, how much he contributed, and balance due and so forth, and so on. That is in there. I forget which one it is.

The Court: Will you let me see that?

Mr. Bowles, Jr.: Book No. something.

The Court: I have one that has Book No. 4 marked on it. It is Nelson Exhibit H. I want to say to counsel, in this situation, to aid the Court in getting at the facts and the truth, please don't understand that anything I said is in the nature of a reprimand of counsel. I am interested only in getting the facts.

[fol. 338] Mr. Bowles, Jr.: I couldn't assume it would be a reprimand, because we haven't done anything to be reprimanded for.

The Court: Well, your attitude indicated that you thought that I was abusing.

Mr. Bowles, Jr.: Not at all.

The Court: Now I am talking, if you will give me my turn to talk. I am appealing to counsel now, to aid the Court in as dispassionate, quiet way as they can, to help me get at the core of this situation, and I want more light—

Mr. Bowles, Jr.: That is why I rose, Your Honor, to tell you if you look at Nelson Exhibit D, you would find that that is the sheet that is taken from the Brotherhood's record that shows from their Book No. 3, relating to the firm of Davis, Rerat, Yaeger and Lush. Now, I want to see that book, so I can see all the rest of them.

Miss Moten: You said D. You have D, Judge.

Mr. Bowles, Jr.: I think so, that is the way I marked it, but I realize we got confused quite frequently there in the numbers we were giving to them. And I will remind the Court, also, that other exhibits in relationship to charge [fol. 339] ing of this salary back and the commissions to these investigators, also, tie into individual cases in these records.

Mr. Stallard: Well, if counsel would tell me how they could figure up—Mr. Nelson said yesterday, and I can read from my record, the contributions for 1957 or '9, and I don't know which—my own writing—he says 33.5 was assessed to Henslee and Henslee, which amounted to \$19,109.25 for that year. Davis, Rerat, Lush did a million eight hundred some thousand, and they said 22.77 percent that year, \$12,412.99. The only way I know you could figure it per year would be for each lawyer to send into

the department what business they did, so they could calculate a pro rata share for each lawyer. We admitted that. This was in the allegations. We came right back and said that is exactly what we did. Now, this is the mechanics, how they have arrived at it. Now, apparently, a big firm like you had there, they sent a photostatic copy of this sheet on their ledger to the department so they could see all the transactions.

Now, Mr. Bernard Savage didn't do that. He sent Mr. Maher these, they are in as exhibits—he sent Mr. Maher on cases, and he would figure out how much his fee was, but he didn't transmit any money. But that was [fol. 340] for the department, so at the end of the year, they could say, "Mr. Savage, your share is so-and-so, you have done a certain amount of business," so he didn't keep his books as good as that lawyer.

The Court: Do we have in evidence what Mr. Savage paid for '53 through '58, inclusive?

Mr. Stallard: Yes, sir, that is based on a percentage.

The Court: And Mr. Bowles wants that carried further.

Mr. Bowles, Jr.: Yes, sir.

The Court: He wants '59 and '60.

Mr. Bowles, Jr.: Yes, sir. In the complete spirit of trying to cooperate with the Court, and to make this difficult question more plain and simple, may I make this statement, Your Honor. If you will take the trouble, and it is a lot of trouble, and I am not asking you to do it—I am going to state to you what you will find if you look at it. If you will look in the *In re: Beck* case, the man who tried it came here, and told us certain things—if you will examine into that record, you will see that this exact same situation arose there—the same difficulties—call after call, [fol. 341] trying to get these papers, subpoenas for them. Finally, the Court entered an order which I have asked you to enter before, and which you have entered before to produce these records, and Mr. Nelson, himself, went to their fifteenth floor or thirteen—twelfth floor, right underneath Mr. Chase, and, himself, under the order of the Court, looked at what I want to see, and got out of it what was suitable in his case.

Now, all I want to do is the privilege of seeing in this case, and Mr. Lewis' case and Mr. Rives' case, who have come from outside, and taken Virginia people to outside, down to Birmingham and Atlanta and other places since the magic date—all I want to do is the privilege of seeing the records under those circumstances that the Nebraska Court made them let Mr. Nelson see out of the same books, and I want that brought up to date to 1961, just like the Court in Nebraska made them bring up for Mr. Nelson, to 1959, which is the time he was talking about. Now, that is what I am after.

The Court: Would you like to have an order authorizing you to inspect those records?

Mr. Bowles, Jr.: I would be glad to have that order, if [fol. 342] I can't make them bring them here. I have been to Cleveland once, and I don't want to go the second time, unless I have to. Now, I want to be able to do exactly what Mr. Nelson did, up to '61, and that is what I would like the Court to order, and that is what I thought I was getting the Court to order when I got the man that the constitution says has custody of these things under subpoena to bring them. Now, all I want is one. That is all I want.

The Court: I know, of course, with your usual care, you did what you could with the information that you had, but this witness comes here with certain records which have not been looked at yet at all, and he says that he has those records under his control, and then refers to them, and says the records are in his custody, and he hasn't done it. Now, I am not disposed to hold this witness in contempt under those circumstances. Now, we will talk about an order authorizing you to go in person and inspect these records.

Mr. Bowles, Jr.: May I, very humbly, in the alternative, suggest to Your Honor, that you may, under these circumstances, have properly, in my judgment, done what [fol. 343] the Supreme Court of the United States did to the United Mine Workers, and fine this defendant so many dollars per day until they do produce those records in response to your first call in your order?

The Court: I am not prepared to do that unless and until I have more information about the bulk of the records of an organization as large as this.

Mr. Bowles, III: If Your Honor please, as I understand from the exhibit of Mr. Maher, Exhibit 78, in his testimony given in call, he is vague and indefinite as to how many books there are, but as near as I can figure out, there aren't more than five. There are a small number of books. The man that is in charge of them, if you will read his deposition given, "wishy washed" all around about how many there were, and "Well, I don't know, I haven't seen that in so many years," and what-not, but I don't think there are any more than five books, and I sincerely state that to the Court, as my personal belief.

Mr. Bowles, Jr.: I also remind you that Mr. Nelson, when he saw them, only saw three books. He marked [fol. 344] them Book No. 1, Book No. 2, Book No. 3, and he said, if you will remember, that the first things that he introduced were on Senate pads, which we know as Blackstone pads.

Now, I think, sir, unless I can be corrected about it, that that is the extent of the records that we want to see. That is all that Mr. Nelson saw, and I don't see why it can't be ordered.

The Court: Now. Mr. Stallard?

Mr. Stallard: May I make a reply?

The Court: Yes. Yes, sir.

Mr. Stallard: I cannot put my hand on it, but if I remember correctly, Mr. Maher has made an affidavit which has been introduced here as evidence on an interrogatory that there were no payments after April 1, 1959. Counsel demands to know what were the payments. Well, if you haven't got any payments--no books. But he says he has got to know. Well, he made an affidavit, and they have introduced it as evidence. Now, if they have got some evidence to refute that they do have some books, then they ought to produce them, but until he gets evidence that they have some books after April of '59, because it has been introduced here, Mr. Maher made an affidavit, and [fol. 345] they have introduced it as evidence.

We don't have any contributions. There weren't any contributions. I think this witness here will give us the amount that was made. I understand they cut it off April 1, the magic date they call it. I understand it will show how much the contributions lumped together for that whole three months would be, and he has that information. He has it for '54, '55, '56, '57, but it ran up—it was a very large sum. I understand the sum would be—well, I have it here—for the year '54, it was \$189,000; for the year '56, \$216,000—no, that was carrying the balance. I beg your pardon. It was \$116,000 for the year '54; \$201,000 was the contributions for the year '56; \$203,000 for the year '57; '58, \$156,000; '59, \$158,060 which was paid at the end of '59; \$23,000, showing it was cut off April 1 at the end of the year. They figured up what business it had done, \$23,000.

The Court: Now, Mr. Stallard, either one thing or the other ought to be done in this situation. The original records pertaining to these matters we are talking about in this Legal Aid Department or the Department of Legal Counsel—the originals ought to be produced here before the Court, [fol. 346] or Mr. Bowles should, by order of this Court, be given access to the complete and detailed records—all the records in the custody—not of Mr. Chase, he wasn't interested in all the records of the Legal Aid Department or the Department of Legal Counsel as it became after.

Now, one or the other. This complainant is entitled to that, in my judgment.

Mr. Stallard: Well, I thought we had given him everything he had asked for, but we had not broken it down as he wants it broken down, as the lawyer from Nebraska did. And frankly, until yesterday, I didn't know that they were paid, they were breaking it down themselves in the department. I had no idea. I thought the contributions were the large sum, and they spent the money, but it looks like they broke it down, too.

The Court: Of course, you can get a result before a court in Virginia as well as elsewhere by the presumption in law that if a witness is available, and not put on, the presumption obtains that he would be adverse. I may allude to one

thing. I think it is proper that I should. There has been enough shown in this case, already, if I have the dates [fol. 347] right, it was back in Mr. Whitney's time that he sent out the formal notice to—one to an individual—that no contributions were to be made by the individual regional counsel to the Legal Aid Department, which it was then. And Mr. Kennedy, as you say, said that was merely—that that was nothing in the world—and he had both in his hands—but the discharge of that regional counsel. It doesn't bear that interpretation. It was an order then and there to cease. There will be no more payments. And then to all regional counsel was the other one that he had in his hand, and that is not susceptible of anything, but they realized it was wrong, and they were going to stop it, and they continued it, according to the answer and according to the admission, until April 1, '59, knowing that it was wrong.

Mr. Stallard: Yes, sir.

The Court: Now, that is the first thing. I should think this defendant, with that background, would make every possible effort to do whichever is more convenient and reasonable. Let counsel for the complainant go into their department and examine those records in person, and have copies of such as he wants, or I should think that defendant [fol. 348] would be very anxious and zealous to get all of those records, the originals, if practical, before the Court.

Mr. Stallard: I would prefer counsel going out there, because I don't know what the situation is. That is what the other counsel did.

The Court: Would you like to ascertain that you have the records before you make the choice?

Mr. Stallard: I will do it now. They close their office, I understand, at this time. They have fast time out there.

Mr. Bowles, III: One hour.

Mr. Bowles, Jr.: May I suggest to the Court, from the practical standpoint—you remember, I think it was that yesterday I mentioned to you that the Clerk in the Nebraska Court in Lincoln had gotten confused, and had not sent a document, and that we had that today. We phoned and asked that he send it. It was on my desk this morning. I submit to you that these three or four little books could be put on an airplane this afternoon, and they would be here in time for Your Honor to see them tomorrow morning.

Mr. Stallard: I wouldn't think so. The office—I don't [fol. 349] know what time it closes. What time does the office close?

The Witness: It closes at three o'clock your time. Our office closes at four o'clock, Judge, and that would be—I have Cleveland time, and Cleveland time, it is a quarter after four. The office closes at four o'clock.

Mr. Bowles, Jr.: Isn't your time the same as ours, Mr. Chase, now?

The Witness: No, sir.

Mr. Bowles, Jr.: Are you on Central Time?

The Witness: We are on Daylight time. I have Cleveland time, and my time is a quarter after four. Our office is open eight to four p. m.

Mr. Bowles, Jr.: Well, isn't there somebody that—in order to keep us from staying here longer—couldn't go down to the office tonight, and that could be reached at home, to do something about that?

The Witness: I don't know where the officers are. We have meetings all over the country, Mr. Bowles, and I don't know whether Mr. Maher is there or—well, nobody else knows anything about it.

Mr. Bowles, Jr.: Mr. Maher isn't well enough to go to meetings, is he?

[fol. 350] The Witness: I don't know whether he is home, or where he is.

Mr. Bowles, Jr.: Is Mr. Maher well enough to bring those books?

The Witness: I couldn't tell you that.

Mr. Bowles, Jr.: Would you ascertain that, please, and get me a doctor's certificate, because he is the man I requested and wanted originally.

Mr. Stallard: I have got a doctor's statement here that says he cannot testify. He had a heart attack.

Mr. Bowles, Jr.: Well, can he travel and bring them? I won't ask him a question. Just bring the books.

Mr. Stallard: He could send somebody with them. I don't think a man who had a heart attack could come down here just to bring some papers.

The Court: Mr. Stallard, I have indicated that in this situation, that confronts the Court that the defendant should be zealous to make perfectly open accessibility of these records in one or the other way, whichever is more practical.

Mr. Bowles, Jr.: Well, Your Honor, Central Daylight Time is the same as ours.

[fol. 351] The Court: He is on Daylight Savings Time.

Mr. Bowles, Jr.: But you are not on Central?

The Witness: No, sir.

The Court: He is on Daylight Savings. We are not. The witness says that it is one hour later now in Cleveland than it is here.

Mr. Bowles, Jr.: He is on daylight. And I understand that, sir. I am trying to convince my client of that fact.

The Witness: In fact, I have the time here. I haven't changed my watch. It is a quarter after four there.

Mr. Bowles, Jr.: I would like to say this one further thing to the Court. I am not in exactly the same position. I believe, that Mr. Nelson is in regard to having to make a trip to Cleveland. Mr. Nelson was requesting the books, and all he wanted to do was to go and see what records they have. I have demonstrated to this Court what records they have got; what books they have got, and it seems to me that under the proof that is already in this case, that it is unreasonable to require me to go to Cleveland to get them, rather than to require this defendant to bring here the specific things that we have pointed out.

[fol. 352] The Court: I haven't decided anything on the record, but it seems to me that in my remarks that are now in the record, I have given pretty clear information.

Mr. Stallard: I would be glad to call and see whether we could get the books brought here.

The Court: You are not trying to satisfy the Court or even opposing counsel at this juncture. My suggestion is that you are trying to make a full disclosure of every possible thing, on account of your client—for the sake of your client.

Mr. Stallard: I thought that we had, Your Honor, and I feel if we could show all the evidence here they have, and

will have the large sum paid by all the regional counsel, but it is not broken down.

The Court: They want to see the breakdown.

Mr. Stallard: The breakdown? Well, of course, they are entitled to that. I don't see that that would amount to anything.

Mr. Bowles, Jr.: Well, Your Honor, it embarrasses me very much to have to state for the sake of the record that I am unwilling to accept the statement of counsel as to [fol. 353] what those records consist of. I want to see the originals.

The Court: You are entitled to see the originals without assigning any reason, and it doesn't embarrass you, and doesn't embarrass Mr. Beecher Stallard at all.

Mr. Bowles, Jr.: I see that it doesn't.

The Court: Because he has not seen them. He doesn't know, so don't let's get at it that way.

Mr. Bowles, Jr.: Well, now, Your Honor, I have to state to the Court that I am unable to proceed further with the case without the records that I have called for.

The Court: I understand. Now, did I understand that you have another—to complete one of your exhibits, by something that is coming in the mail since we started, on your desk this morning, that you want?

Mr. Bowles, Jr.: The only difference in it is that—it is the same thing—one is certified, the other has already been accepted in evidence without objection.

The Court: Oh, I thought it was something left out.

[fol. 353a.] Mr. Bowles, III: And to be perfectly frank with the Court, I left it on my desk. It got here quickly from Nebraska, but got up the hill less quickly.

The Court: Counsel—I will expect all counsel always to be perfectly frank. There are some things taken for granted here, and I find that it works that way. I appreciate counsel's response to my appeal for aid.

Mr. Stallard: Your Honor, I would like to know the years, if I could get the years, because I want to be exact.

Mr. Bowles, III: Every year you have got.

Mr. Stallard: Every year I have got?

The Court: The whole, entire record of the Legal Aid Department.

Mr. Stallard: 1930 on!

The Court: Now, in existence.

Mr. Stallard: Now in existence?

Mr. Bowles, Jr.: What is that?

The Court: The entire records of the Legal Aid Department, Department of Legal Counsel, that are now available.

Mr. Bowles, Jr.: Yes, sir.

[fol. 354] Judge Lamb: Is that what you want?

Mr. Bowles, III: And if they are available from 1930 to date, we would like to have them from 1930 to date.

The Court: Well, that would cover the first statement.

Mr. Stallard: Your Honor, you mean the financial contributions? You don't mean all the records, because I don't think two box cars—

The Court: I don't know, and you don't know. I am tired of speculating on that. I want to do something that is practical. If there are two box cars, in fact, I am not going to have them brought into this courtroom. It is impractical, but if they are in fact, two or three books that can be brought, I don't see why you wouldn't be glad to bring them,—

Mr. Stallard: I would be delighted.

The Court: (Continuing) —in the posture the case now occupies.

Mr. Stallard: I agree, Your Honor. If that is what they want, the contributions that the lawyers are making—is that what you want?

Mr. Bowles, Jr.: Mr. Stallard, we don't know what you [fol. 355] have got. We want everything you have got, so we can see what we think is worthwhile to put into this case. That ought to be plain, I should think.

Mr. Stallard: I will see what I can do.

The Court: Now, we will adjourn the hearing of this case until—I will be happy to have a suggestion.

Mr. Bowles, Jr.: Well, Your Honor, I am going to make another alternative suggestion. My young friend here, Mr. Bowles, III, seems to be full of far more energy than I am after these three days, and he suggests that if it will

facilitate this defendant any, that he and his companion will go out there and get them, and bring them back on the plane, either tonight or tomorrow.

Mr. Bowles, III: I will get them, and I hope by the middle of tomorrow, if they will let me get them.

Mr. Bowles, Jr.: And maybe be back in court if they would let him get them.

Mr. Stallard: I would be delighted if they would do that. I don't know who is there.

The Court: Mr. Chase, are you going back?

The Witness: Sir?

The Court: Are you going back?

[fol. 356] The Witness: Yes, sir. I have a plane reservation at ten o'clock in the morning.

Mr. Bowles, Jr.: Well, Your Honor, don't let's send him under his direction, because he doesn't know anything about them.

Mr. Stallard: He has got other duties.

The Court: He is on the floor above, and he may have some way—

Mr. Bowles, III: He hasn't the authority.

The Court: (Continuing) —and Mr. Stallard might send a letter up there that might have some weight.

Mr. Stallard: I think I could call up, if I get somebody in the office, but I don't know their homes, where they are or who to call.

The Witness: There isn't anybody in the office, Your Honor.

The Court: Not now. I understand that.

The Witness: I don't know where they are. You can appreciate that I have been here since Sunday.

The Court: Mr.—if I refer to him as Junior, I won't say “young” Mr. Bowles.

Mr. Bowles, III: The third.

The Court: Mr. Bowles, III, the younger, will go. Will [fol. 357] you go with him?

Mr. Stallard: Yes. I will go with him, Your Honor.

The Court: I think you will get the records if you go together.

Mr. Bowles, III: I think I know what we want, sir.

The Court: Well, he will endeavor to find out where they are.

Mr. Stallard: Should we call up in the morning, which would be ten o'clock? By nine o'clock, call up to see if they would have them available? No use to go out there unless we just go on a blind trip.

The Court: I would like to have counsels' suggestion for the day to continue this to.

Mr. Bowles, Jr.: Well, I would think that we could continue on Friday.

Mr. Stallard: Friday would be all right.

Mr. Bowles, Jr.: A plane out there and back the same day. I did it.

The Court: Friday at ten o'clock. Well, try to be back.

Mr. Bowles, III: I will make every effort to get back, sir. [fol. 358] The Court: Well, if you can't, you can't. Ten o'clock then, we will go ahead. And this case will be adjourned until ten o'clock Friday morning, Friday, the 13th.

Mr. Stallard: Your Honor, could I cross-examine this witness, who has been examined, while he is here? Would it be necessary for him to come back? They have examined him, and I would like to examine him.

The Court: Mr. Bowles, you have not examined this witness at all on the merits of the case.

Mr. Bowles, Jr.: No, sir, we can't do it until we get the records.

The Court: What did you want to ask him at this time?

Mr. Stallard: I am going to ask him about the records he brought. I think it would be very helpful to the Court.

The Court: That is not cross-examination.

Mr. Stallard: No, it is not. But they asked him a whole lot of questions.

The Court: Well, they asked him a whole lot of questions about the subpoena duces tecum.

Mr. Stallard: I would be making him my own witness. [fol. 359] The Court: I have ruled on that. I do not think it was an intentional, on his part, violation of the subpoena duces tecum. I do not think he meant any disrespect to the Court. That is what I believe. Now, you want to put your witness on?

Mr. Stallard: I would have to call him as my witness. I would be bound by it, but this is what I make of it. He says that these records that Mr. Bowles is going out and get—what will he know about them?

The Court: I don't know.

Mr. Bowles, Jr.: That is what I want to find out when I get them. I am not willing to excuse him until I get the records here, sir.

Mr. Stallard: I don't think we ought to be unreasonable with the witness. He has a great deal of business. If he can throw any light on it, we would like to ask him, but we don't want to be unreasonable with the witness.

The Court: Mr. Bowles, this witness says he knows nothing, and he has testified under oath that if these records exist that are going to be brought back, that would be the first time he has ever seen them.

[fol. 360] Mr. Bowles, Jr.: Well, Your Honor, all I can say to you is that under the circumstances, that the general treasurer of this corporation is responsible for all of its receipts and what-not. I would like to have the privilege of examining the "top dog" in the financial world of this corporation, of this association, on the records that I get when they come here, and he is the head man, according to the constitution. I would like the privilege when I get the records here, to see what familiarity he really has got with them.

The Court: Any reason to think he won't give you the same answer then that he gives you now? That he knows nothing about them, and has never seen them?

Mr. Bowles, Jr.: Yes, sir, because the records that are there are going to be the details of the summaries that he has gotten, and he has a great deal of information about that, he says.

The Witness: I didn't say that, Your Honor. The records that I have—you can see it here. Excuse me.

Mr. Stallard: Here is a copy for counsel.

Mr. Bowles, Jr.: I don't want to introduce those. I don't want to go into that until I get the originals, sir. I am [fol. 361] sorry, sir, but I don't want to do it.

The Witness: All I have, Your Honor, is—as the money was transferred to my department, counsel seems to think

that I issued the receipts to these counsel. I have nothing to do with it. I don't know a thing about it. The Legal Aid Department evidently turns over so much money, fifty or one hundred thousand dollars, or whatever it is, at the end of the year, that goes into our books as from the Legal Department.

The Court: Have a seat, sir.

The Witness: And as a result of that, there is no explanation—there is no breakdown. It is just monies received, and then from time to time, we spend it.

The Court: I want you to understand the position that the Court finds itself in; there are certain records that the complainant in this case wants produced—just on the point of being able to produce them, it looks like, we hope, and return Friday. You do occupy a high executive position with the defendant Brotherhood.

The Witness: Yes, sir.

[fol. 362] The Court: One of the two highest. General secretary and treasurer, and you are under summons of the Court and in this position at the request of counsel for the complainant. I want you to understand, sir, that the Court has not got the power to excuse you from that summons until counsel that summoned you is satisfied. It is a very important thing in our administration of justice that you have what they call "compulsory process" to get witnesses, and if you ever have a case, yourself, you would appreciate the wisdom of it. Sometimes it cuts one way, and sometimes it cuts the other, but it is a very important thing. The Court is without power to excuse you under the process. The counsel say they wish to examine you further. So you are still under the process of the Court.

The Court adjourns this case until ten o'clock Friday.

Mr. Stallard: If Mr. Bowles and I are not back, you will know we are still working.

The Court: Send us a telegram.

Mr. Stallard: All right, sir.

Mr. Bowles, III: I will personally see that that is done.

[fol. 363] (Whereupon at 3:35 p. m., an adjournment was taken to Friday, October 13, 1961, at 10:00 a. m.)

October 13, 1961

Met pursuant to adjournment at 10:00 a. m.

The Court: Good morning, Gentlemen. I am told that some of you had a good night's rest last night.

Mr. Bowles, Jr.: I did, sir, but I don't think any of the rest of them did. Now, let's see, where are we?

The Court: When we adjourned, the day before yesterday, Mr. Chase, I believe, was on the stand. I am ready to proceed.

Mr. Bowles, Jr.: Yes, sir, Mr. Chase, would you resume?

Mr. Chase: Sir?

[fol. 364] Mr. Bowles, Jr.: Would you resume your testimony, please, sir?

The Court: Mr. Chase is still under oath.

WILLIAM E. B. CHASE, the witness on the stand at adjournment, resumed and testified further as follows:

Direct examination (continued).

By Mr. Bowles, Jr.:

Q. Mr. Chase, it was my understanding on day before yesterday that you and Mr. Stallard and Mr. Bowles, III, and his assistant, were to go to Cleveland and undertake to find the records about which we were discussing. You did that, I believe?

A. Yes, sir.

Q. Have you brought back the records we were talking about?

A. I brought—I don't know if they were what you were talking about, but I brought back all the records that were available.

Q. You have brought all the records of the Legal Aid Department, I believe?

A. That's right.

Mr. Bowles, Jr.: And, if Your Honor please, I would [fol. 365] like, through this witness, to file those records as exhibits, with naturally the privilege of the defendant to have them photostated, or allow them to be photostated and introduced and remove or withdraw the original records. I presume they would want to have them back, as a matter of practicality, sir. I don't know, not yet having seen them, I don't know what that involves. I don't know how long that would take, and I just don't know exactly what I am talking about. I know my son does.

Now, I have this suggestion: There are certain records, I understand, which could not be physically transported at this time; because they were identified, but couldn't be assembled, and that they are coming by registered mail to the Clerk, with return receipt. What has Your Honor got to suggest as a practical way of getting those things into the record, for the purpose that we wish, to be identified? I think that is going to take some time, and my thought is that we might very well drive on, and in the testimony, in the case, subject to those things being introduced and identified, in due course.

MOTION TO KEEP LEGAL AID DEPARTMENT RECORDS FROM ASSOCIATION OF AMERICAN RAILROADS AND RULING THEREON

The Court: Mr. Stallard?

Mr. Stallard: Your Honor, I would like to make a motion [fol. 366] at this time. Mr. Bowles, III, Mr. Chase, and I went to Cleveland, and Mr. Julian Sherman, a representative of the American Association—Association of American Railroads, went, and he went into our office and wanted to see our books. I told him he could not see the books, that he was not a Virginian, he was not a party to this suit. He very kindly sat in the waiting room of Mr. Chase. We have certain records here which we would be glad to turn over to counsel, and let him examine them in any way, but I make a motion that these records do not get in the hands of Mr. Julian Sherman, representative of the American Railroad Association, and I was amazed to know that he would ride all the way to Cleveland and try to get into our offices.

Mr. Bowles, Jr.: You are through?

The Court: He is not under summons, or is he?

Mr. Bowles, Jr.: Who is that, sir?

The Court: The gentleman in question.

Mr. Bowles, Jr.: No, sir, he is not. I have stated to the Court very frankly all the way through this proceeding, and it has any number of times appeared in this record, that the Association of American Railroads have been very help-[fol. 367] ful to the Bar, and have pointed out to us evidence that might be available at various and sundry places. I said to the Court on Wednesday, I believe, that I was unwilling for my son to go alone, and that I wanted somebody to go with him. These gentlemen knew who Mr. Sherman was, and he went along as a helper to my son in that connection, and there was no objection offered to that until he got there, and then they said they didn't want him in their office, and I understand he didn't go in their office.

Mr. Bowles, III: And they stood right at the ticket counter yesterday morning out at the air lines and watched me buy Mr. Sherman a ticket to Cleveland and back, and no objection was made at that time as to his accompanying me.

Mr. Bowles, Jr.: And the State Bar has been paying Mr. Sherman's expenses to make that trip.

Mr. Stallard: Now, Your Honor, in reply to that, I hold in my hand a certified copy of the record in the case of *Georgia v. Byington*, which has been introduced. It is Byington Exhibit A, October 10, 1961.

In this case, Your Honor, a witness for the plaintiff came in here and testified under oath that Mr. Tom Lewis, Jr., [fol. 368] came to her house; tried to solicit her case. This record shows on direct examination and on cross-examination, that she testified under oath that she didn't know who the man was that came there from Atlanta, and they had indicted Mr. Lewis and not prossed the case. She came here—

Mr. Bowles, Jr.: Who is "they," please?

The Court: I beg your pardon?

Mr. Stallard: She came here—

Mr. Bowles, Jr.: He said, "they." I don't know who he means by "they."

Mr. Stallard: The State of Georgia.

Mr. Bowles, Jr.: Who is "they"?

Mr. Stallard: The State of Georgia not prossed the case. Your Honor, she came here and testified that she knew that Tom Lewis came to see her, Tom Lewis, Jr. She said she came here when the representative of the American Association of Railroads—and I would like to read Your Honor that testimony—I think it is a serious matter when a witness will testify under oath in Georgia that she doesn't know a man, and come here and testify just the opposite. Now, a representative of the American Association of Railroads brings her. I say that is a serious matter. I would [fol. 369] like to read that testimony. I think it is a very serious matter when the representative of the American Association of Railroads will associate himself with her, and she remembers the man's name when she didn't, under oath, in February of 1961, and I would like to read you that testimony.

The Court: One minute.

Mr. Bowles, Jr.: Which witness is this you are talking about?

Mr. Stallard: I am talking about Mrs. Queen. She was Mrs. Queen. She lost her husband.

Mr. Bowles, Jr.: I don't want to interrupt Mr. Stallard, but when he says "they," and "somebody," I would like to know who he is talking about.

Mr. Stallard: I would be glad to inform him.

The Court: Mr. Stallard, before you go ahead, Mr. Stallard, you are indicating perjury, I believe, at one time or another; is that right?

Mr. Stallard: The record will show she testified under oath here, and I have the record that has been introduced by the plaintiff. She testified she did not know the name, and I would like to read that to Your Honor.

The Court: What would be the result, the material out- [fol. 370] come of this case? What would you want the Court to do in that situation?

Mr. Stallard: I would not want Your Honor to do anything. My motion is not to let these records get in the hands of a representative of the Association of American Railroads, because I don't trust them. Here, a woman has

come and testified one way, and the representative brought her here. She remembered here, but she didn't remember a few months ago, testifying for Georgia State. I don't want to do anything other than not let these papers get in their hands. I don't trust them.

The Court: Well, may I suggest this: In the interest of speeding this case, the point that you are making now is already in evidence before the Court, and would be subject to argument. You are reading it back into the record. Now, would you just add to it?

Mr. Stallard: No, I just make that statement. I thought if anybody questioned it, I would like to read it, and I will use it in argument, but my motion, of course, is not to let my records get in their hands. I will turn them over to counsel. He can examine them, photostat them, do anything he wants.

The Court: Now, I have this suggestion: That we get [fol. 371] along as fast as we can, and I don't mean that I am in a hurry about the case. Let me make this comment. Certain parts of these records in question are recognized to be admissible in this case.

Mr. Stallard: No, sir, I have not conceded that. I have made a motion on all of these records. I do not think they are material to the issue in this case at all. We are charged with practicing law unauthorizedly in Virginia. I don't think what takes place in Georgia has a thing in the world to do with it.

The Court: I thought you made that motion which was overruled and your exceptions noted.

Mr. Stallard: Yes.

The Court: To put it another way, the Court has ruled that certain of these records that are now available are admissible.

Mr. Stallard: Yes.

The Court: Over your objection and your exception noted. Suppose they are admitted in evidence in this court, you are not suggesting that the Court keep his records secret, are you?

Mr. Stallard: No, sir, I am not, but I may, at a certain time, ask Your Honor to seal the records, and I don't know

[fol. 372] that. Your Honor would do that, or have the power to do that, but I would make the motion and save the point.

The Court: I believe it would take a good deal of time. Certain portions of these records you want to have in evidence; is that right?

Mr. Bowles, Jr.: Yes, sir, my impression at this time, sir, from having conferred on it very briefly this morning, that Mr. Bowles, III feels that all of these records are records admissible, and relevant and pertinent in this case, in response both to the call that was heretofore made last year, and also in response to the subpoena served upon Mr. Chase.

Now, he has already been through them, and it is his opinion expressed to me. When I say "he," I mean Mr. Bowles, III. We have talked very briefly in a two-hour session, and in his opinion, they are all pertinent.

The Court: You wish to offer them all; is that right?

Mr. Bowles, Jr.: Yes, sir, I do. Now I say to the Court, from the standpoint I am not burdening the record, if, when we have an opportunity to go through them care- [fol. 373] fully, there are some of them that appear not to be relevant, I would not care to burden the record with that, but I think they are very few.

Now, it is my impression that there are certain things here that relate to other departments in these records. If that should be so, I am not concerned too much with them.

The Court: You are interested in the Legal Department?

Mr. Bowles, Jr.: That is correct, sir.

The Court: Now called the Department of Legal Counsel; is that what you mean?

Mr. Bowles, Jr.: Yes, sir, and it is my understanding from the general review of those records on yesterday in Cleveland that these are the books that Mr. Nelson saw, and that they are similar records contained on into 1960, and those are, of course, the things I wish to put in.

The Court: I am not going to decide anything now, and I am not going to make decision. I am not going to decide it until I hear from you. Such original records as are introduced here may be withdrawn, and you have to have [fol. 374] copies of them left, under the statute.

Mr. Bowles, Jr.: I have already made arrangements with Mr. Warner to do that.

The Court: Arrangements to copy all of the records that have been brought back?

Mr. Bowles, Jr.: Yes, sir.

The Court: And how voluminous are they, how long will it take?

Mr. Bowles, Jr.: That, sir, I don't know. You can tell the Judge right now.

Mr. Bowles, III: There are four volumes, Your Honor.

The Court: Let me see them. That is all right. Now, I see what you mean.

Mr. Bowles, Jr.: And, perhaps, there may be some more loose-leaf sheets that will be coming.

Mr. Stallard: There are a great deal more.

The Witness: This bag is full of them, Your Honor.

The Court: It seems to me that a reasonable solution at this time—you are having photostats made of all of them?

Mr. Bowles, Jr.: Yes, sir.

The Court: They are ordered and will come soon?

[fol. 375] Mr. Bowles, Jr.: That is correct. I might say, if I am not interrupting the Court, that I think it would be rather useless to require Mr. Chase to just sit around here while that process is being done. If he will introduce these things and make them a part of the record, then the Clerk can go on and do his photostating. When that is done, the originals can be returned to Mr. Stallard.

Mr. Stallard: I will stipulate.

The Court: Isn't that a reasonably fair suggestion, and all that the Court can do; if it isn't, I will hear from you further. You have ordered photostats of all of the records?

Mr. Bowles, Jr.: Yes, sir.

The Court: You have intimated that perhaps some of them will not be offered.

Mr. Bowles, III: My examination, of course, was in a brief period of time. I was attempting to get back here by ten o'clock this morning. I only saw one letter in this file which was not pertinent to this, and we discussed that out there, and I think everybody agreed it wasn't pertinent. Whether that letter was brought or not, I don't know.

The Court: I was merely taking what Mr. Bowles, Jr.—
[fol. 376] I call him Junior because he is Senior.

Mr. Bowles, Jr.: It produces a great deal of confusion, sir.

The Court: I understand, which the Court shares.

Mr. Bowles, Jr.: Well, the simple remedy for that in my office is to refer to it as the "old man," and the "young man."

The Court: I will adopt that, if you wish. I am trying to get a reasonably human solution of this. I don't want to delay the case, and I don't want to hurry the case. It is certainly possible, in view of your statement that after you have an opportunity to examine more closely, some of these will be offered in evidence, and some will not.

Mr. Bowles, Jr.: That is so; that is possible.

The Court: Allright.

Mr. Bowles, Jr.: At this time, I would like to offer them all, subject to taking out those that are not relevant.

The Court: I don't know that that is necessary. The original records are here, subject to use in this court. Photostatic copies have been ordered, and are in process of being made. Until we know when and where and how we are going, is it not practical to proceed to introduce such of [fol. 377] them as you wish to introduce, the originals? And until we know what we are doing, whether or not they are all admissible; I don't see how I can prevent them from being open to the public. I am not deciding that, sir; I will hear you.

Mr. Stallard: Yes, sir.

The Court: Now, during that process, until we just know where we are going, isn't it reasonable and proper for the Court to direct the Clerk that these original records are not open to inspection by anybody, but counsel?

Mr. Bowles, Jr.: Oh, sure, yes. I wasn't trying to intimate that we want to turn it loose for publication until they are part of this record, and I am not trying to turn it loose then.

The Court: And then we will take that up after we know what is coming in, and what is not, if there is any difference.

Mr. Stallard: I think we understand.

The Court: Then we will take up what disposition is to be made of the original records, and of the photostats. We will have to take it up then.

Mr. Bowles, Jr.: Well, I had in mind this morning, of asking Mr. Chase to point out and describe and identify [fol. 378] as far as he can, these things that he has brought back, and then we will know what we are talking about.

The Court: I hope so.

Mr. Bowles, Jr.: I think so, sir; at least, I hope I will, because I haven't seen them yet. But then the suggestion I made to the Court was that while this copying process, so that they could remove the ones that you have admitted into evidence, was going on, I didn't see any point in trying to—again, I am trying to accommodate Mr. Chase—of his sitting around here waiting until that had been done.

The Court: Well, the Court wishes to do what it can, within reason, to accommodate Mr. Chase.

Now, ask Mr. Warner to come in, please.

Mr. Bowles, Jr.: Now, there is one other matter, sir, or two other matters.

The Court: May we dispose of this first, and then take those up?

Mr. Bowles, Jr.: Well, this is part of this same thing.

The Court: All right.

Mr. Bowles, Jr.: At the time of this visit for the purpose of identifying these things, a reporter was provided, and a stipulation made, as I understand it, that everything that transpired while these records were being examined, looked at and examined, on yesterday, the persons involved and the individuals, everybody was sworn, and a reporter took that down, and that would be a part of the proceedings in this case, as if it had transpired here.

The Court: Very well.

Mr. Bowles, Jr.: Now, I am informed by the reporter, that that cannot possibly be transcribed by him for a period of about ten days or maybe two weeks. It will come here, and the people who made some of these records, have made statements under oath concerning the preparation of them, and what they mean. That has been taken down, sir, and is now in process of being transcribed by a court reporter in Cleveland. I wish to offer that as if it were a deposition

taken, that will come on at the appropriate time, as soon as it can be sent to the Clerk under seal of that reporter.

The Court: Any comments on that, Mr. Stallard?

Mr. Stallard: No, sir, no comment.

The Court: Mr. Warner, Clerk of the Court, I have asked [fol. 380] you to come in.

The Clerk: Yes.

The Court: Because we are now going to introduce in evidence certain original records of the defendant Brotherhood and specifically of its Legal Aid Department, or Department of Legal Counsel.

Mr. Bowles, Jr.: That is correct, sir.

The Court: Mr. Bowles has told me that he has asked you to make copies of all of these records, and that is in process of being done. We wish to proceed with the case, to introduce those records at this time.

The Clerk: Yes, sir.

The Court: Mr. Chase, the general secretary-treasurer of the defendant Brotherhood, is here under summons, and the Court, and Mr. Bowles also, does not wish to detain him any longer than necessary, so the Court is now instructing you to proceed with the photostating and the records that are introduced. They will now be held in your custody, and until the further order of the Court, if need be, they will not be subject to inspection by anybody except counsel in this case: Mr. Bowles, Jr., Mr. Bowles, III, and Mr. Stallard, to be specific. Nobody else can look at these [fol. 381] original records.

Mr. Bowles, Jr.: That's right, sir.

The Court: And you be careful in the photostating, to see that there is no exception.

The Clerk: Yes, Judge.

The Court: I mean even in your office, beyond what is necessary.

Mr. Bowles, Jr.: Now, Your Honor, I have asked Mr. Warriner when he makes a copy for introduction by the Court, that he also make one for me, so I won't have to be running up and down this hill.

The Court: What we ought to do with your copy will be subject to future order, too.

Mr. Bowles, Jr.: I understand, sir, that is why I reminded you of that now.

The Court: The copies that you have, one copy will be in the custody of the Court.

Mr. Stallard: Oh, yes; I would like to have a copy.

Mr. Bowles, Jr.: So he will make three copies, one for the Court and one for each of us.

The Court: There will be two copies when you photostat, in addition to the original for the Court; one for Mr. Bowles, and one for Mr. Stallard. The copies that are [fol. 382] furnished Mr. Bowles and Mr. Stallard are on loan to them, subject to the order of the Court.

Mr. Bowles, Jr.: That is correct, sir, we understand.

Mr. Stallard: Yes, sir.

The Court: It seems to me that that is a practical solution.

Mr. Bowles, Jr.: That, I understand, pertains in the interim until the things are introduced in evidence, and until such time as you make whatever order you like?

The Court: It continues until further direction of the Court.

Mr. Bowles, Jr.: That is correct, sir; I understand. Now, as a practical matter, again, Your Honor, fully recognizing the rules of this Court, I am wondering if it wouldn't be more simple if Mr. Bowles, III could be substituted for me, for the mere purpose of asking Mr. Chase to identify these things, so that we can offer them, because I haven't seen them yet. He was there. He knows what they are. He can ask intelligent questions, and I can't.

Mr. Stallard: I think we can stipulate that.

[fol. 383] The Court: I know of no rule against that. I know of no rule of Court against that.

Mr. Bowles, Jr.: I thought you could only have one counsel examining one witness.

The Court: This is examination by counsel, and this is an adverse witness. You have no objection?

Mr. Stallard: No, sir, I can stipulate and read what I think it is, and we can just stipulate these.

Mr. Bowles, Jr.: I would think it would be more simple what I want to do; this witness is here under subpoena to

bring records. Now he has brought them. I would like to introduce them through this witness as exhibits so-and-so, Chase No. so-and-so.

Mr. Stallard: Now, Your Honor, that is true, they are from his department, but this one, I brought, and Mr. Chase did not bring these records. I brought them, myself, kept them with me. Mr. Chase was present with Mr. Bowles, III on another floor of the building, so he would just know—he was present and saw me get them from Mr. Maher, so I will stipulate these are the papers that we got.

The Court: It would be an appropriate thing for you to testify to.

[fol. 384] Mr. Stallard: No, sir, I don't want to testify.

The Court: I mean on that point, there is no objection to a lawyer testifying.

Mr. Stallard: No, I wouldn't want to testify under certain rules.

The Court: Mr. Chase knows these records were taken out of that office, that would be sufficient.

Mr. Bowles, Jr.: I would think so.

Mr. Stallard: Well, I didn't want to leave the impression they were his records. They are not. He has his records.

Mr. Bowles, Jr.: I don't think it is necessary. The records are already clear that he is the general secretary and treasurer and so forth and so on. I don't think we need go back all over that.

The Court: We are dealing with a lot of staff, Gentlemen. Mr. Chase, if you are aware that these records were taken from what we may call the central office of what was the Legal Aid Department, and is now the Department of Legal Counsel, your testimony to that effect will be accepted.

The Witness: Yes, sir.

Mr. Bowles, Jr.: He knows they came from Mr. Maher's office.

[fol. 385] The Court: That is just what I said.

Mr. Bowles, Jr.: Yes, sir, I just identified the name, the chief clerk, Maher.

Now, do you know what the last exhibit was for Chase?

Secretary of the Court: The last exhibit was Chase A and Chase B, the subpoena duces tecum, and the summons, so this would be Chase C.

Mr. Warriner: May I make copies as they are introduced?

The Court: I think they are going to enter all of them. That would be subject to objection, and exception. I am not going to keep those in the courtroom. It would be my responsibility, those that are admitted in evidence. No, let me correct that, all of these records are subject to the instructions that I have just given you about inspection.

Mr. Warriner: Yes, Judge.

The Court: So they would be—I will take the responsibility of handling those myself, and I will not have to keep you in the courtroom.

Mr. Warriner: All right, Judge.

[fol. 386]

INTRODUCTION OF PLAINTIFF'S CHASE EXHIBITS NO. C THRU L
WITH COMMENTS OF BOTH PARTIES

By Mr. Bowles, III:

Q. Mr. Chase, I hand you a book marked Book No. 1. It is a letter-type book. I believe inside somewhere is the title, "Membership and Registry System of the Brotherhood of Railroad Trainmen."

The Court: A little bit louder, please.

By Mr. Bowles, III:

Q. "Membership and Registry System of the Brotherhood of Railroad Trainmen," and this book, I believe, was obtained from Mr. Maher, C. B. Maher's office, on October 12, in Cleveland?

A. It doesn't state that, Mr. Bowles.

Q. No, but from your own knowledge?

A. It states "The Investigation Expenses."

Q. "Investigation Expenses," the statement and title is up here, membership—

A. Well, that is the form of the book used, but—

The Court: A little louder, please.

A. (Continuing) It is the form of the book used, Your Honor, like any type of ledger, but at the top, it says, "In-

vestigation expenses," which I think is the record. I never saw them before yesterday.

The Court: You do know that they came from Mr. Maher's office?

[fol. 387] The Witness: Yes, sir, that is correct.

The Court: The answer to the question is yes. The book will be identified by the Court, as a matter of course.

Mr. Bowles, III: As Chase Exhibit C.

The Court: Wait a minute, please. This is Chase Exhibit C.

(Chase Exhibit No. C, a ledger, was identified and filed in evidence.)

Mr. Bowles, III: I hope Your Honor will excuse me, if I am a bit foggy today.

Mr. Stallard: I tell Your Honor, we got in at three o'clock this morning.

The Court: I am going to endeavor to identify these in a way that the tab will be removed and the book will not be mutilated. Plaintiff's Chase Exhibit C is identified and filed.

Mr. Bowles, Jr.: Now, just a minute. What is our system now, Your Honor? Are we going to wait to offer them and have the Court rule on them?

The Court: You are offering them now.

Mr. Bowles, Jr.: We are offering them now.

[fol. 388]. The Court: This is admitted in evidence.

Mr. Stallard: Yes, sir.

Mr. Bowles, Jr.: I see.

By Mr. Bowles, III:

Q. Now, I hand you, Mr. Chase, a similar book to Chase Exhibit C, but marked "Book No. 2."

A. That's right.

Q. You identify that as having been obtained from Mr. C. R. Maher of the office?

A. Yes, sir, I do.

Mr. Bowles, III: I offer this in evidence as Chase Exhibit

D.

The Court: Plaintiff's Chase Exhibit D is identified and filed.

(Plaintiff's Chase Exhibit No. D, a ledger, was marked and received in evidence.)

By Mr. Bowles, III:

Q. Mr. Chase, I hand you a similar volume as Chase Exhibit C and D, this volume being marked Book No. 3. Can you identify this as having been obtained from Mr. C. R. Maher's office?

A. That is correct.

Mr. Bowles, III: I would like that marked Chase Exhibit [fol. 389] E, if Your Honor please.

The Court: Plaintiff Chase Exhibit E, identified and filed.

(Plaintiff's Chase Exhibit No. E, a ledger, was marked and received in evidence.)

Mr. Bowles, Jr.: You are both still whispering. Try to scream, if you will, and then maybe we will hear you.

The Court: He is doing all right.

Mr. Stallard: We are mighty tired. We were up twenty-one hours.

The Court: The Court has every consideration for you.

Mr. Bowles, Jr.: You remind me of coo-coo clocks that are about to run down.

The Court: What?

Mr. Bowles, Jr.: They remind me of coo-coo clocks that are about to run down.

The Court: I think they are doing very well, better than you would have done if you had gone.

Mr. Bowles, Jr.: I wouldn't have done as well.

By Mr. Bowles, III:

Q. Mr. Chase, I hand you a brown and motley white and [fol. 390] black ledger sheet, or book, that I believe was obtained from Mr. Maher's home, and brought in by his wife on yesterday, and delivered into your custody, and Mr. Stallard's custody, as being the records of payments re-

ceived from various regional counsel for certain numbers of years?

A. That is correct.

Q. Can you identify this book, and would you file it with your testimony as Chase Exhibit F?

A. Yes, sir.

The Court: Chase Exhibit F is identified and filed.

(Plaintiff's Chase Exhibit No. F, a ledger, was marked and received in evidence.)

By Mr. Bowles, III:

Q. Mr. Chase, I hand you a manila type folder file marked 1958, deposit slips containing a number of letters; can you identify this as having been produced by Mr. C. R. Maher on October 12?

A. Yes, sir.

Q. Would you file this with your testimony as Chase Exhibit No. F—rather, G?

The Court: Chase Exhibit G, identified and filed.

[fol. 391] (Plaintiff's Chase Exhibit No. G, letters and deposits, were marked and received in evidence.)

By Mr. Bowles, III:

Q. Mr. Chase, I hand you a manila folder with the title on it, "1959 Deposit Slips"; can you identify this as having been produced by Mr. C. R. Maher in his office on yesterday, October 12?

A. Yes, sir.

Q. Would you file that as Chase Exhibit H with your testimony?

The Court: Plaintiff's Chase Exhibit H, identified and filed.

(Plaintiff's Chase Exhibit No. H, deposit slips, was marked and received in evidence.)

The Court: Exhibits G and H are placed by the Court in envelopes with the identification outside.

By Mr. Bowles, III:

Q. Mr. Chase, I hand you another manila folder with the title on it, "1960 Deposit Slips"; can you recognize this as being an exhibit produced by Mr. Maher on yesterday?

A. Yes, sir.

Q. Would you file that as Exhibit I with your testimony, [fol. 392] please?

The Court: Plaintiff's Chase Exhibit I is identified and filed, placed, in a similar manner, in an envelope.

(Plaintiff's Chase Exhibit No. I, deposit slips, was marked and received in evidence.)

By Mr. Bowles, III:

Q. Mr. Chase, do you have with you the payroll records of your department, the general secretary and treasurer, representing all payments made to all employees of the Department of Legal Counsel, and the Legal Aid Department, as well as regional investigators back to a date which is the date that your men working last night were able to get back that far, in order for us to get out of Cleveland?

A. Yes, sir, this black ledger is our office records.

Q. How far back does that go, sir?

A. I am just looking to see what the dates are. Apparently, they go back—the office expenditure goes back from the year 1956 to date, which my auditors told me were the only records we had available at the present; and the investigators' payments evidently are from the same period, from 1956 to date, I believe. On that to date, Your Honor, [fol. 393] 1956 to 1960; there were no further payments made after April 1 of 1960 to any investigator.

The Court: Did you mean, or is it a slip of the tongue, did you mean '60 or '59?

The Witness: With respect to the investigators, Your Honor, it is '60. In other words, as I understand it, under the Illinois Supreme Court decision, we could hire investigators, and we did in these records, and the records will prove it; and incidentally, these are our ledger records that we have, and the only ones we have to supply to our

auditors and to our convention, and to the Federal Government, in response to the Landrum-Griffin Bill, in case we are questioned on them. These are important, as far as our books are concerned. But after the so-called magic date, as I gather, any payments from counsel were cut out and the records will so show, but when we did hire by the Brotherhood, there were payments made to investigators up until April, 1960, and since that time there have been no payments made.

Mr. Bowles, Jr.: Well, now, Your Honor, the office expenditures in here in the first portion from 1956, I think he said, to date, because they still pay the office expenditures, but the investigators in this book only go from [fol. 394] '56 up until April, I think it is, 1960. My inquiry was that when Mr. Chase said here on Wednesday that he knew nothing about this, I assumed that he has acquired that information. He has just been telling about between that time.

The Court: The information that he has given is obtainable, I believe, upon inspection of the books.

Mr. Bowles, Jr.: I just wanted to get that clear.

The Court: And it was, in a sense, unnecessary. He has undertaken to give a reason why it stopped. It was in response to the Court's question, I thought.

Mr. Bowles, Jr.: I understood that, sir.

The Court: I thought it was a slip of the tongue, on his part, and I asked him. I think his answer is appropriate.

Mr. Bowles, Jr.: I understand the record speaks for itself, but the explanation is what I was getting at. I take it from both what you said and what he says, that it is derived from the book, itself.

The Court: The dates derived from the book itself.

Mr. Bowles, Jr.: Yes, Your Honor, but all of that other information he gave about what they did under the Illinois [fol. 395] decision and what they didn't do under the Illinois decision in the Legal Aid Department, I would take it would not appear from the book, itself.

The Court: That would not appear.

Mr. Bowles, Jr.: And I wonder where he got that information, because he testified here on Wednesday that he didn't know anything about this department.

The Court: I think that you have put rather an extreme interpretation upon Mr. Chase's evidence Wednesday. As I understood it, he was not custodian of these records. That was his evidence, and he knew nothing of the details of the records. His explanation now is, it deals with the policy, with the construction that they placed on the Illinois decision, and if it is objectionable at all, I would think that it would make a point as a legal opinion, Mr. Chase practicing law in Virginia.

Mr. Bowles, Jr.: Well, sir, I had his testimony on Wednesday written up, and I read it carefully last night, and I will not pursue the point any further at this time.

The Court: I understand.

Mr. Stallard: Your Honor please, I would like to reply. [fol. 396] The Court: If I am wrong, you will direct me in due course. That is the present rule.

Mr. Bowles, Jr.: Yes, I will have that opportunity on the record.

The Court: Of course, you will.

Mr. Stallard: Your Honor, may I be permitted to reply to Mr. Bowles' statement? We sat for a couple of hours yesterday and heard the testimony of the chief clerk and also of his secretary concerning what they had done, and the evidence was, and it is being written up, that the investigators were cut off in 1960, the legal counsel is cut off in 1959, and the evidence of the president of the Brotherhood also corroborates that, and I don't know whether Mr. Chase got it from that evidence or whether it is in the book, sir. I know I heard it.

The Court: The answer will stand subject to re-examination at a future time, if need be.

Mr. Bowles, Jr.: I just wanted to point that out. We don't think the records do show that.

The Court: You have said that.

Mr. Bowles, Jr.: I want to point this out. We don't think the records show what he has just said. They show the contrary.

[fol. 397] The Court: You want to introduce this?

By Mr. Bowles, III:

Q. I wanted to ask him one question further. Mr. Chase, I believe it is correct that your auditor is making an attempt to further look back into your records, and if he discovers more records, or is able to compile more records, you have authorized him to send them in, registered mail, return receipt requested, to the Clerk of this Court?

A. That's right, if there are any further records available, why we stipulated that we would do our best to see that the Court gets them.

Q. Now, would you introduce that, please, Mr. Chase, as Exhibit No. J with your testimony, please?

A. Yes, but I would like to, in my testimony, in entering this exhibit, I would like again to reiterate that these are my records from my department over which I have control and know something about, and I again stipulate to the Court that insofar as these records are concerned, the first part of them involved the payment to the former Legal Aid Department and the now Department of Legal Counsel office of the Brotherhood of Railroad Trainmen, from the period 1956 to date.

The second portion of it is my office record on payment, and our ledger record of the Brotherhood of Railroad [fol. 398] Trainmen on payments made to investigators from, I think it is the year 1956, up until April, 1960, and that is all the records we have, sir.

Q. Now, Mr. Chase, then I believe it was stated that these investigators and the personnel of the Legal Aid Department actually in the Standard Building in Cleveland were the only employees of the Legal Aid Department at any time, and that these records represent the payroll records of all employees, regardless of who they are, or what they do, of the Legal Aid Department; is that not correct?

A. You will have to ask that again. I missed the first part of it.

Mr. Bowles, III: Would you read it back, please?

(The court reporter read Mr. Bowles, III's question back.)

A. To my knowledge, that is true, sir.

By Mr. Bowles, III:

Q. Would you file that as Exhibit J, Chase J, with your testimony, please?

The Court: Plaintiff's Chase Exhibit J, identified and filed.

(Plaintiff's Chase Exhibit J, a ledger, was marked and [fol. 399] received in evidence.)

By Mr. Bowles, III:

Q. One other question, Mr. Chase, that exhibit, Chase J, was also obtained on yesterday, was it not?

A. Oh, yes, sir, it was obtained from our office.

Mr. Bowles, Jr.: Now, Your Honor, may I interject once more in the hope of trying to be cooperative. I gathered; and I understand, I think correctly, that this is a current record of this defendant, and I would suggest that that record be handed to the Clerk right now and let him start to photocopying it, and it may be that he, since it is current, that he would want to do something about it. He would want to take it back as soon as he could. If I am incorrect in that, sir, I would like to be so informed, but it is my understanding that that is up to date.

By Mr. Bowles, III:

Q. It is up to the 29th of September, I believe, is it not, the last day of September?

A. Insofar as the office expenses are concerned, I believe it is. It is right up current to date, insofar as the investigators, as I said before, I think they stopped any payments made to them from the Brotherhood, stopped in [fol. 400] April of 1960. I don't think that is locked, Your Honor. Your Honor, I think they just put it in there. It was put in that ledger.

The Court: I am examining the book, to see if it can be taken apart without a key; only it obviously requires a key to be inserted in the lower lefthand corner. You have the key with you?

The Witness: I didn't know it was locked, sir. They just put it in those binders, but those come out of your records in innumerable binders. Those are just sheets taken out of our daily ledger accounts in the office.

Mr. Bowles, Jr.: Again, if I can stick my neck out, sir, I think any small seat key will open it.

The Court: Do you have one with you?

Mr. Bowles, Jr.: No, sir, I haven't got one.

The Court: Well, I only wanted one.

Mr. Bowles, Jr.: I can send to my office and get one.

The Court: Counsel, come into my office, please.

(The Court and counsel left the courtroom, and upon returning, the following occurred:)

The Court: Counsel informs me that the plaintiff's [fol. 401] evidence will be completed shortly, and that the defendant's evidence will be brief. This statement is subject to two qualifications. On behalf of the plaintiff there are certain documents on the way to the Court.

Mr. Bowles, III: That is correct, Your Honor, and I also believe that the statement was made to me yesterday, that all of them that were available would be mailed not later than October 18, the evening of October 18.

The Court: The defendant will close his evidence with a qualification that he may wish to procure and place in evidence certain exemplified copies of court proceedings in Virginia. The Court is aware of and accedes to the qualifications of the testimony being closed with this proviso.

Mr. Bowles, III: If I may interrupt, Your Honor, there is one other item coming, and that is the transcript of all the conversation under oath that went on in Cleveland yesterday, as to the production of these documents.

The Court: That is a stipulation, I should include that, on behalf of the plaintiff in my statement.

Mr. Bowles, III: Yes, sir.

[fol. 402] Mr. Stallard: Your Honor, I would like to put on one witness, if he gets here, Mr. Hugh, and he said he would be here at eleven-thirty. If he doesn't, I won't put him on, of course.

The Court: Today!

Mr. Stallard: Today, that is.

The Court: That is in five minutes. If he comes in five minutes, we will hear him.

Mr. Stallard: Give him a few more minutes. He is coming in a cab. All right, go ahead.

The Court: Now, the Court understands and accedes to the stipulation with this proviso: That no further evidence will be admitted after the decision of this case is announced from the bench.

Mr. Bowles, III: That is correct.

Mr. Stallard: That is correct. Of course, I want to put in some motions at the end of his testimony. I have got some written motions, just for the record.

The Court: Oh, yes, I understand.

Mr. Bowles, III: I expected that, Your Honor.

(Discussion off the record.)

By Mr. Bowles, III:

Q. Mr. Chase, in confining myself now totally to rec- [fol. 403] ords produced on yesterday, October 12—and I am not asking you questions now about the records that you originally brought down here with you—I believe that you have with you today, that were gathered on yesterday, the originals of the auditor's reports from 1950 to date; is that correct, sir?

A. No, that isn't correct, not to date, because the audits are yearly.

Q. Well, through 1960, then?

A. These are the Ernst and Ernst audits of our complete organization from the year 1950 through 1960.

The Court: Are they originals or copies?

A. (Continuing) Originals, Your Honor,

By Mr. Bowles, III:

Q. Will you take, Mr. Chase, the audit of 1950—

The Court: Mr. Bowles, is it feasible to introduce all of these as one exhibit?

Mr. Bowles, III: Well, I was hoping, sir, that I could identify the particular page of this audit that has to do with the Legal Aid Department, and therefore save the Court and myself, the burden of putting all of this in.

Mr. Stallard: I concur, Your Honor, because it involves a great deal of insurance business and many other aspects [fol. 404] of the Brotherhood of Railroad Trainmen, and there is only one page pertaining to that, and I concur with that.

Mr. Bowles, III: And I was going to ask the witness to identify in each of the audits, 1950 through 1960, that page pertaining to the Legal Aid Department.

Mr. Bowles, Jr.: In other words, I understand, sir, we will put in the entire exhibit and have that one page photostated, photocopied?

Mr. Bowles, III: That is correct.

The Court: That can't be done as a group?

Mr. Bowles, Jr.: Well, he had in mind, I think, was to do like we did before, to give this exhibit as K-a, -b, -c, -d, and -e, by the year.

Mr. Bowles, III: K-1950, K-1951.

The Court: If you prefer that way, I am not going to dictate on that. Mr. Stallard is rising ready to stipulate anything you want.

Mr. Stallard: We stipulate that page. Let the secretary take it right into the record, that particular page.

Mr. Bowles, Jr.: We would rather have it accompanied as an exhibit, but we would like to mark it so that we can get simple identification, 1950, a, and 1951, b.

[fol. 405] The Court: That can be done in stipulation, Gentlemen?

Mr. Bowles, Jr.: That's right.

The Court: Now, I am not insisting on this, but why can we not have a stipulation that the audits, that the following pages are taken from the audits, something like that, 1950 audit, page so-and-so, K-1?

Mr. Bowles, Jr.: That's right; that is what he was going to do by a simple answer to the question.

The Court: A stipulation. I am sorry I took up so much time. I apologize.

By Mr. Bowles, III:

Q. Have you found that page?

A. Yes, sir, it is page or—wait a minute—it is, well, there are no page numbers. It is schedule No. 22 in the 1950 audit. That is the 22nd item, Your Honor.

The Court: A photostatic copy of that will be received in evidence as Plaintiff's Chase Exhibit K, 1950.

(Plaintiff's Chase Exhibit No. K-1950, was marked and received in evidence.)

Mr. Bowles, Jr.: Right.

[fol. 406] Mr. Bowles, III: That would be most agreeable, Your Honor.

Mr. Bowles, Jr.: Your Honor, to show my heart is in the right place, let me just designate it seems to be the answer, just like you said.

The Court: I am gratefully surprised, but I am very glad to have it done that way.

By Mr. Bowles, III:

Q. On the 1951?

A. In 1951, it is also known as Schedule No. 22.

The Court: And that will be K-1951, identified and filed, a photostat of that page.

A. Yes, sir.

(Plaintiff's Chase Exhibit No. K-1951, a schedule, was marked and received in evidence.)

The Witness: I believe, Your Honor, I will check them, but I believe that Schedule No. 22 in all of these audits, is the only page that refers to the Legal Aid Department; but I will check, just to make sure.

The Court: As you go through, please do, sir.

A. (Continuing) 1952, it is also Schedule No. 22.

The Court: All of these will be introduced as Plaintiff [fol. 407] Exhibit K, followed by the year.

A. (Continuing) I guess I made a mistake here. In the year 1953, it is Schedule No. 24. In 1953, the page—

Schedule No. 24. In the year 1954, it is Schedule 24. In the year 1955, it is Schedule No. 24.

The Court: I am just completing '54 now.

A. (Continuing) Are you ready for 1956, Your Honor?

The Court: '56 is the next one.

A. (Continuing) In the year 1956, it is Schedule No. 24. The year 1957, it is Schedule No. 24. The year 1958, it is Schedule No. 24. The year 1959, it is Schedule No. 24. The year 1960, it is Schedule No. 25.

The Court: I believe we have these in order except for the photostating.

(Plaintiff's Chase Exhibits Nos. K-1952, K-1953, K-1954, K-1955, K-1956, K-1957, K-1958, K-1959, and K-1960, being schedules, were marked and received in evidence.)

Mr. Bowles, III: Again, perhaps if Mr. Warriner, the Clerk, could begin on this, Your Honor, Mr. Chase might be able to return these to Cleveland with him when he goes back.

[fol. 498] A. (Continuing) Here is a synopsis, if you want to check it. I have already done it for you.

Mr. Bowles, Jr.: But that will not be a photocopy.

The Witness: Sir?

Mr. Bowles, Jr.: But that will not be a photocopy.

Mr. Bowles, III: We have ordered photographs taken, of it.

The Witness: It is a sworn copy. I can swear to it.

Mr. Bowles, Jr.: That is something the Clerk can't do, and I will have to sit down and check those.

The Witness: We will give you these.

Mr. Bowles, Jr.: Well, I would be very pleased if you would.

The Witness: In other words, this one, I would be glad to give the Court and the opposing counsel. This is the synopsis from 1954 to date, showing exactly the records that are in there, the operation and expense of the department and up until 1960 and 1961, it shows that those

two departments have been in the red as a result of no contributions to the tune of \$85,000 and some odd cents, [fol. 409] which are being defrayed by the general fund of the Brotherhood.

The Court: There are eleven audits here?

The Witness: I think it would be eleven, 1950 through 1960 would be eleven.

The Court: How many copies do you want the Clerk to make of these, Mr. Bowles?

Mr. Bowles, Jr.: I reckon you want one.

Mr. Stallard: No, I don't believe I care for those.

Mr. Bowles, Jr.: Just two.

The Court: An original for filing, identifying, and one copy for Mr. Bowles, and that ought not to take over three-quarters of an hour.

Mr. Warriner: That is right.

The Court: Have you a reservation?

The Witness: Sir?

The Court: Have you a reservation to go back?

The Witness: Yes, sir, I have, if it please the Court and the counsel, I have reservations for 4:15.

By Mr. Bowles, III:

Q. Mr. Chase, my questions are still now only in reference to those pages produced in Cleveland yesterday on October 12. What other papers did you bring with you, [fol. 410] produced on yesterday?

A. That is all I brought, was this synopsis.

Mr. Bowles, Jr.: That is day before yesterday.

By Mr. Bowles, III:

Q. Those synopses that you are referring to, did you not bring those originally, when you came here on October 9th?

A. Yes, sir.

Q. My question refers to what other papers or documents or records that you have with you now that you got on yesterday, October 12, in Cleveland?

A. That completes them, I believe.

Mr. Bowles, Jr.: I would like to get identified in some way through this witness, and he knows better how to do it than I or Mr. Bowles, III, as to what is coming, that the people out there are going to send to the Clerk under seal and registered mail.

The Court: I believe I endeavored to cover that in conference, Mr. Bowles. Mr. Bowles, III will tell you whether it is accurate or not.

Mr. Bowles, Jr.: I didn't hear either one of you, sir. I am sorry.

The Court: I know there is noise outside, and nobody is to blame.

[fol. 411]. Mr. Bowles, Jr.: I am not trying to blame you, Judge.

The Court: I understand.

Mr. Bowles, Jr.: I don't know where you get that idea.

The Court: While you were out in conference and Mr. Bowles listening carefully, I intended to cover what is on the way and to be received in evidence on your side, provided it gets here before the decision is announced.

Mr. Bowles, Jr.: Well, sir, I don't want to submit it for decision unless the stuff that is coming from Cleveland does get here.

The Court: I am not going to decide it before it is submitted.

Mr. Bowles, Jr.: I understand.

Mr. Stallard: I would like—

Mr. Bowles, III: I did want to, in a little more detail with Mr. Chase, pin down what is coming. I won't take but just a moment.

A. Mr. Bowles, I don't know. You made those arrangements with the clerk.

By Mr. Bowles, III:

Q. You were present when those arrangements were [fol. 412] made.

A. Some of those I was, and some I wasn't.

Q. It is adequately covered in the testimony.

Mr. Bowles, Jr.: Well, if so, okay. I wasn't there, thank God, and I don't know.

Mr. Bowles, III: If Your Honor please—

Mr. Bowles, Jr.: Now that doesn't have anything to do with Mr. Chase.

Mr. Bowles, III: Not at all, but at this time, I would like to introduce as Plaintiff's Exhibit No. 82 a document consisting of three pages entitled "Changes in legal counsel since October 1949." This is a document that we requested that the president of the Brotherhood have prepared when we took his deposition in Cleveland on June 1 of this year, and it was given to me in Cleveland by Mr. C. R. Maher on behalf of the president on yesterday, and I would like to introduce it at this time.

The Court: Mr. Stallard was present, was he not?

Mr. Stallard: Yes, I gave him that. I have a copy of that. I don't have a copy for anybody but myself. I just wonder if you could get that photostated and send it back? [fol. 413] - The Court: This is Plaintiff's Exhibit 82.

Mr. Bowles, III: That is correct, sir.

The Court: What is it—changes in legal counsel?

Mr. Bowles, III: Consisting of three pages, typewritten document.

(Plaintiff's Exhibit No. 82, changes in legal counsel, was marked and received in evidence.)

By Mr. Bowles, Jr.:

Q. Mr. Chase, I have a couple of questions related to the other matters that I wanted to ask you. I want to get it clear in my mind, if I understand this situation correctly: That now, in the year 1961, do I understand that the Legal Aid Department is being supported out of the general fund of the Brotherhood?

A. It has been supported out of the general fund of the Brotherhood since April, I think—what was that magic date you referred to—April 1, 1959?

Q. How was it, did the general fund enter into it at all prior to that time?

A. I don't know what you mean by that question.

Q. I mean this: If it cost "X" dollars to operate the fund and the contributions were insufficient, where did the deficit come from prior to the magic date?

A. As I understand it, Mr. Bowles, prior to April 1, 1959, the department at that time was called the Legal Aid [fol. 414] Department, and since, I think it is January 1, 1959, it has been the Department of Legal Counsel. Prior to that April 1, 1959, it was supported, as I gather, from the contributions of the counsel, and it had nothing to do with our general fund.

Q. Well, you, as I understand in this situation, had the lump sum figures transferred over to your office.

A. Yes, sir.

Q. For the Legal Aid Department?

A. In those three envelopes you will see, and that is the only one, they tell me, that they have where they transferred those lump-sum payments to us without any notations for the credit of the Legal Aid Department.

Q. I understood that in your testimony on last Wednesday. That is the reason I insisted on going into the details of the Legal Aid Department, itself. Now, in those years, your records would show whether there was a profit or loss in the operation of it, by virtue of contributions?

A. That shows in those books that you have there.

Q. That is what I am getting at. Now, that would show?

A. Not in the Ernst and Ernst account. I don't know whether you offered it as an exhibit or not, but in this sheet that I brought with me, involving the expense in the records [fol. 415] of the Legal Aid, Legal Aid Department, from 1954, this is our own record. This shows exactly from Ernst and Ernst records, the status of the Legal Aid Department, and it shows in these two years, as I told you, that in the year 1960 the department was \$55,701.21 in the red. At the end of 1961, the department is \$85,445.96 in the red.

The Court: You said the end of '61?

A. Yes, sir.

The Court: You mean to-date in '61?

A. Yes, sir, that is the office, Your Honor, in Cleveland, that department. We still have a department in Cleveland that does this.

The Court: I am just saying you spoke in answer to the end, that the deficit or in the red at the end of '61.

A. I am sorry. I meant up to date.

The Court: Yes.

By Mr. Bowles, Jr.:

Q. Well,—

A. Prior, I will explain this to you.

Q. I am not saying this critically, but you are just like the hare, and I am the tortoise. You have gone on a long period. I was talking about prior to the magic date, and you have gone off now talking about '61. I want to get [fol. 416] to that later.

A. Prior to '59, the department was self-sustaining.

Q. Well, still, you haven't got to the point that I have asked you. Do you remember records in your office show whether or not it made a profit?

A. No, those are the records. You have them there.

Q. Well, what records does your office, the treasury department, show whether or not in those prior years, prior to the magic date, two things: First of all, whether it was a profit or a loss, and I understand you have said it was self-sustaining; and if there was a profit, what happened to the profit?

A. Mr. Bowles, I am trying to be explicit as possible.

Q. I am sure you are, but we don't seem to understand one another.

A. Those records are contained in Ernst and Ernst.

Q. Now, when you say "those records," what are you talking about?

A. What you are asking me about.

Q. What records are they when you say "those"?

A. From 1950 to 1960, the ones that the Judge just put down from our Ernst and Ernst audit. It showed that any surplus that was carried over from one year to the other, [fol. 417] was absorbed the following year, and, as I understand it, I don't know—I understand that the counsel were taxed commensurate with the expense of the office up to 1959, and past 1959 it has been supported by the general fund. Prior to that time, the regional counsel supported it.

Q. I understand all of that, but either I am very stupid or else you don't understand what I am trying to find out.

The Court: Excuse me just a minute. Get Mrs. Cessna to read that answer back, and see if it isn't perfectly intelligible.

Mr. Bowles, Jr.: I heard it, sir. It is, but it doesn't respond to what I am trying to find out.

The Court: Your question was if there was a profit, what became of it?

Mr. Bowles, Jr.: Yes, sir.

The Court: He said that it was set up in the following year to the credit—

Mr. Bowles, Jr.: I so understand.

The Court: All right.

Mr. Bowles, Jr.: Well, now, may I go on from there, sir?

The Court: Please, sir, but—

Mr. Bowles, Jr.: But what?

[fol. 418] The Court: If you don't understand, get the reporter to read it back to you, and I think you will understand.

Mr. Bowles, Jr.: Well, sir, read it back, and let me see whether I do or not.

(Thereupon, the court reporter read the witness' last answer.)

Mr. Bowles, Jr.: Now, may I say to the Court, in all frankness, that I personally don't understand that, and I would like to ask some questions about it.

The Court: You certainly may do so.

By Mr. Bowles, Jr.:

Q. Now, what do you mean when you say "absorbed," absorbed by whom?

A. You asked me if we made a profit, and I would take from your question, that you would imply that if there was a profit that it went into the general fund of the Brotherhood. That isn't true. Each year, as I get the picture, and as far as our records show, there was—say \$70,000 would come in. If the office expense was \$62,000,

that \$8,000 would be carried on the next year, and then at the end of the next year, if the office expense was \$75,000 and the counsel submitted \$80,000, that \$5,000 was carried over to the next year, and absorbed in the operation, and that continued until April 1, 1959, and then all monies that had been submitted over the years, were absorbed and from that date, April 1, 1959, we have supported that department of Legal office by our general funds of the Brotherhood.

Q. Right. Now, then, this is what I understand from your answer, that your office now kept only the book figures of total receipts and total expenditures?

A. That's right.

Q. Now, your office then, and your office records, showed whether or not there was a profit or loss in each of those years?

A. And that is in those records there.

Q. I understand, and that if there was a profit which you say you think there was, in each of those years, it was carried over as a credit to the Legal Aid Department on your books?

A. I wouldn't call it technically a profit. I would say it was a surplus.

Q. Well, a surplus, whatever it was, an excess over expense of contributions?

A. That's right.

Q. Now, that showed on your books each year as a credit to the Legal Aid Department?

[fol. 420] A. That's right.

Q. Now then, I understand that after, whatever this date is, April 1, '59 we are talking about, that your books showed there were no credits—

A. That's right.

Q. —coming in, and it was a loss from then on and that the general fund took care of that?

A. With one exception, Mr. Bowles. After April 1, 1959, some of the general counsel, on the basis of the estimate for the 1958 business, might have submitted after April 1, 1959, their pro rata share for the year 1958, and that is shown.

Q. Now you have just pointed out exactly one of the things that I wanted to come to. These records on your books do show that there were contributions that were received after April 1, 1959?

A. There were a few for 1958 business. They weren't current. They weren't current expenses, they were expenses for the previous year that the regional counsel had been late in submitting, I imagine, to the chief clerk of the Legal Department.

Q. Now, whatever may have been the cause, and you said the cause is because they were still owing for previous years?

[fol. 421] A. That's right.

Q. As late as May 17, or the 7th, 1960, your books would show that they were paying up back payments?

A. No, sir. In 1960, as I explained to the Judge earlier, the payments there are shown and are for the organizers that we paid from Grand Lodge for work done—not organizers, the investigators—we paid them through the Grand Lodge for work done for the regional counsel.

Q. In other words, instead of regional counsel paying them and charging them back, then you paid them direct?

A. That's right.

Q. Which was a question of the same thing, only who issued the check?

A. Well, I would say yes.

Q. I didn't catch that, sir.

A. Well, I guess it would be the same thing, yes.

Q. Yes.

A. In other words, there was an expense involved, and they paid it to us and we paid it. We paid the investigators direct from Grand Lodge to maintain their railroad retirement continuity of service.

Q. Now, I want to ask you what it was that you brought on October 9 in response to the subpoena we were talking about the other day, and now I am at the place I would like [fol. 422] to know what it was.

A. The synopsis of the financial records of the Legal Aid Department from '54 through 1960, which, at the time, was what I thought you wanted.

Q. Now, how many copies of this do you have? Could we have one? I want to introduce this.

A. Yes, you may have another one.

Q. Thank you, very much. I would like to ask you to file as Exhibit—whatever the number is—

Mr. Bowles, III: L.

By Mr. Bowles, Jr.:

Q. —L, the typewritten things that you say you brought with you on October 9, consisting of four pages, I believe.

A. I don't know as to their legal implications, but if it takes—well, I am under oath to swear that as far as our bookkeeping department is concerned, these are correct.

Q. Well, we understand that, sir.

A. I mean I want to make it very plain to the Court that this is what our books show.

Q. That's right.

A. Right.

The Court: The plaintiff's Chase Exhibit L is identified and filed.

[fol. 423] (Plaintiff's Chase Exhibit No. L, a synopsis, was marked and received in evidence.)

By Mr. Bowles, Jr.:

Q. Now, Mr. Chase, are those pages then all that you brought with you on October 9?

A. Yes, sir.

Q. Now, these are—

A. Except a couple of copies of that Ernst and Ernst audit, and we filled in the balance from 1954 when we went back to Cleveland yesterday. I brought some of those copies with me.

Q. We have already put those in evidence?

A. That's right.

Q. The originals of them?

A. That's right.

Q. Mr. Chase, where did this information come from—your books?

A. Yes, sir. It came from our ledgers.

Q. I see, and are these, in effect, transcripts of the photocopies of the ledgers that we have put in?

A. Yes, sir.

Q. Now, tell me something, sir; I gather from your statement a very few minutes ago, that—

[fol. 424] A. The only difference, may I clarify this last question?

Q. Sure, please do.

A. This is the exact duplicate of these Ernst and Ernst reports, except in Ernst and Ernst's, we don't show any deficit, because we show a total expense of the department, and after those two years, there is no red figure, because the general fund absorbed them; but in our own book-keeping department, which this portrays, we go down into detail, and showed the income and the output, and then the red figure means that was money that didn't come in to support the department, so we had to support it out of the general fund.

Q. Now, would you, of your own knowledge—I believe you have just said a moment ago, that these regional investigators are all—whatever you call them, the investigators—are all members of the union of the Brotherhood?

A. Yes, sir, I think they were, yes, sir.

Q. And they carried and get, what is it? Railroad retirement benefit?

A. Yes, sir.

Q. And unemployment benefit, as such. Now, they pay dues?

[fol. 425] A. Yes, sir.

Q. Now, legal counsel and regional counsel are also all members of the union of the Brotherhood?

A. I think they all are, except one. I think, if you notice in the last issue, there is one of them that the application for membership is pending. Other than that, I believe they are all members.

Q. I think you are correct, sir, except in the last edition, he has been passed on, and he now is.

A. I think he is.

Q. We may be in error about that, but it is intended that he will become one, if he is not now?

A. Yes.

Q. Is that right?

A. I think that is correct, yes, sir.

The Court: May I catch up with you?

Mr. Bowles, Jr.: Could I ask one more question?

The Court: May I catch up with you by asking her to read to me the last two or three questions?

Mr. Bowles, Jr.: I have one more question.

The Court: You have all the time you want, and I want to keep up with you, and I don't know if I followed the last two questions and answers.

[fol. 426] (The court reporter thereupon read Mr. Bowles, Jr.'s last two questions, and the witness's last two answers.)

The Court: Now, go ahead, Mr. Bowles.

By Mr. Bowles, Jr.:

Q. My next question is, sir, that as members of the Brotherhood, they also pay dues?

A. That is correct.

Q. Is there any record in the Brotherhood as to how much dues each member pays and where those dues are allocated to?

A. Well, those dues are allocated partly to local lodge, and the balance to Grand Lodge.

Q. And is there any bookkeeping on the allocation of the amount of dues, or doesn't that also just come as a lump?

A. That comes as a lump from the treasurers of the local lodge. They are not charged any more in the way of dues than any other member. In other words, they pay the same. If, for instance, Mr. Stallard would be a member—I don't know whether he is or not—if he was, and the dues in this local lodge were \$5.40, that is all he would pay, and he would come in just as any other ordinary member.

[fol. 427] Q. And then that is divided as to the dues going—

A. The difference.

Q. The split between the local lodge and the certain amount forwarded by the local lodge to the Grand Lodge?

A. That is correct. In there are the local lodge dues and then there is a legislative assessment and then Grand Lodge dues, protective fund, and if they carry insurance, that is separate. And if they carry insurance, then there is a tuberculosis assessment. You see, they are all broken down into differences. I can show you a slip here.

Q. Well, you do that when you get up there on a percentage basis, I take it, in your office, don't you?

A. That's right. It is allocated to different funds.

Q. Now, are there any situations in which members pay any dues directly to the Grand Lodge?

A. No, sir.

Q. Are there any assessments that are made on members directly?

A. No, sir. They are all made locally through the local lodge; and I think I know what you are driving at. In no instance does anybody pay more than what the local lodge dues are, and the Grand Lodge dues.

[fol. 428] Q. There is no equality of assessment throughout the membership?

A. No, sir, there can't be, and there never has been.

Q. Well, I understand now then, that those dues that come from the local lodges that go into the general fund and are allocated out of the general fund to these various and sundry purposes?

A. That is correct.

Q. And now, under your present system, a portion of those dues are allocated to the maintenance of a Legal Aid Department, or Legal Department?

A. They are not allocated there, no, sir. They go into the general fund, and that is a general expense such as attorney fees or organizers or anything over and above the protective fund, and legislative fund comes out of the general fund.

Q. Do you have any system by which any percentage, any fixed percentage of dues that are paid by a local lodge go to any specific purpose?

A. No, no fixed percentage. They are on a strict assessment basis.

Q. Again, I think we probably are not understanding one another.

[fol. 429] A. Well, maybe if you look at this, you would understand it. This is my own receipt. This is my subordinate lodge dues of a dollar. This is a grievance assessment which goes to the general grievance committee fund. That is \$2.50.

Q. Of the local lodge?

A. Of the local lodge. This is the legislative assessment, \$2.50. That is the local lodge. This is local grievance assessment of \$.75 up here. Here are the Grand dues which is \$.75, and if the man held seniority, he would pay the protective and strike fund of \$2.75. Those people wouldn't pay that, all they would pay is the Grand Lodge dues of \$.75 a month.

Q. Well, now that clarifies part of what I wanted to ask you. The portion that goes to the Grand Lodge is the same thing for every member from every local lodge?

A. Yes.

Q. We understand one another?

A. Yes.

Q. Now, I don't know what the amount is. Your card shows \$.75. I believe you have just pointed that out.

A. That's right.

Q. That \$.75 goes to the Grand Lodge. Now, on your bookkeeping, is that divided by percentagewise, like the tax dollar to this department of government, that department [fol. 430] of government, to your internal organization at the Grand Lodge?

A. That particular \$.75, as I said before, that goes into the general fund. We have a protective fund I showed you of \$2.75 assessment. We have an insurance fund. We have a tuberculosis fund. We have a strike fund. Each one of those are separate entities, and the general fund takes care of anything that the other funds aren't specifically set up for. The general fund or the protective fund, either one of them, could take care of any unusual costs.

Q. Well, see if I am understanding you correctly now. You do have a special assessment for tuberculosis or these specific things, and the amount of that assessment is equal throughout?

A. That's right.

Q. Against every member that participates in that particular thing?

A. That is correct.

Q. And that amount, that specific amount, is collected by the local lodge and transmitted to the Grand Lodge for that specific purpose?

A. That's right.

Q. Now then, this \$.75, as you indicated on your own card, whatever that is you had, sir, that is \$.75 which goes [fol. 431] to the general fund?

A. That's right.

Q. Now, that is equal throughout on all members?

A. That is correct; every member pays the same amount.

Q. And that is the amount that each member pays through the local lodge for all of the unspecified assessments; is that correct?

A. Well, it is paid through the local lodge for Grand Lodge use. The local lodge transmits it to the Grand Lodge. We use that for the payment of our officers and salaries and any extraordinary expense that might come up that we don't have a specific fund set up for.

Q. Well, that is what I asked. None of that goes to any of these specific assessments purposes?

A. That is correct.

Q. Now then, I will come back to my original question, in regard to this \$.75. Do you have any specific percentage method of allocating that to any of the other?

A. No.

Q. Unspecified purposes?

A. No, sir.

Q. Out of that \$.75, however, is now coming the deficit maintained by the Department of Legal Counsel? [fol. 432] A. Well, out of that \$.75 we are now paying for that office in Cleveland.

Q. Well, whatever this deficit is that you showed here, Exhibit Chase No. L, for the years 1960 and '61, that deficit of the Department of Legal Counsel is being satisfied out of that \$.75 is what I am talking about?

A. That is correct.

Q. Through this general fund?

A. That is right.

Mr. Bowles, Jr.: Now I understand, if Your Honor please, that the record is clear as far as we can make it clear at this time, that the exhibits are coming from Cleveland and with the tender of those as exhibits, I think the complainant rests.

A. (Continuing) I don't know what they are, Your Honor.

Mr. Bowles, Jr.: And the transcript, Your Honor, that is to come down also from Cleveland.

A. (Continuing) They are all specified in the transcript, Your Honor, and whatever is in there, if we have them available.

Mr. Stallard: Your Honor, I understand that is true, if they are available. The head bookkeeper or auditor, said he would look on the microfilm and see if he could locate [fol. 433] some.

The Court: That transcript will show that, won't it?

Mr. Stallard: Yes, sir.

Mr. Bowles, III: Yes, Your Honor.

Cross examination.

By Mr. Stallard:

Q. Mr. Chase, is the Brotherhood of Railroad Trainmen a fraternal organization?

A. Yes, sir.

Q. Aren't there certain benefits that a member gets out of it when he joins?

Mr. Bowles, Jr.: I didn't hear that last word. I must be getting hard of hearing.

A. We say yes.

The Court: One minute.

Mr. Bowles, Jr.: What was the last word you used?

The Court: When he joins, certain benefits that he gets when he joins. Now, will you read the question back, please?

(The court reporter read back Mr. Stallard's last question.)

[fol. 434] A. Yes.

By Mr. Stallard:

Q. You mentioned some insurance feature.

A. Well, we have all line insurance on our individual reserve basis, such as the all-line companies do. We have accident and health insurance, anybody carrying insurance for \$.25 a month has full TR protection, and we have rehabilitated in thirty or forty years, I think, some four or five thousand people, through our tuberculosis sanitarium, and we have a grievance department and a legislative department.

Q. Did you get a record at the home office on yesterday on Harry S. Dragmire?

A. Yes, sir.

Q. Did President Kennedy testify that he fired him? Will you look in the file, and see if you can ascertain the date?

A. August 5, 1960, I believe.

Q. Now, I will direct your attention to—

Mr. Bowles, Jr.: Could I see what it is?

A. Sure.

By Mr. Stallard:

Q. What is it, Mr. Chase?

A. It is a wire telegram telling Dragmire to comply with the decision of some court, and he will refrain from that [fol. 435] date forward from representing the Brotherhood in any case.

Q. I will direct your attention to some evidence here with reference to B. G. Byington, general chairman of members of the State of Georgia. Would you explain what the general chairman of a membership in Georgia means?

A. Yes, sir, he is just a representative on that particular railroad.

The Court: A little louder, please?

A. (Continuing) He is a representative, Judge, on that particular railroad, representing our membership on that property, and they have their own attorney. He is in no way connected with Grand Lodge, other than we have gen-

eral supervision over those railroads, to see that they comply with the provisions of our constitution.

Mr. Stallard: That is all.

The Witness: He just wanted to see the one letter, I believe.

(The witness is referring to a file which Mr. Bowles, Jr., has.)

Mr. Stallard: I don't think he should examine our whole file, Your Honor. I asked him to get the file from our president's office, and I don't know what is in the file. He just wanted the date. I don't know that he can search all [fol. 436] the files. It might pertain to something that doesn't have anything to do with this case.

Redirect examination.

By Mr. Bowles, Jr.:

Q. I want to ask you, sir, whether this was part of the records that you got out of Mr. Maher's office?

A. Yes.

Q. Yesterday?

A. That was furnished me.

Q. Why wasn't that in this folder, instead of in your folder? This is a financial record, isn't it?

A. No, that isn't any financial record.

Q. It is the end of the man's record—and paying him off?

A. That isn't a financial record.

Q. Well, sir, the—

Mr. Stallard: May I see that? I have never seen that.

Mr. Bowles, Jr.: Well, may I get through first?

The Witness: I think there are letters from counsel in there, Your Honor, that aren't any part of that document. [fol. 437] Mr. Bowles, Jr.: That's right, they are your letters, Mr. Stallard.

By Mr. Bowles, Jr.:

Q: Is this the telegram that you are talking about, dated:

"August 5, 1960

"Harry S. Dragmire
199 Hilltop Crescent
Walnut Creek, Cal.

"In accordance with the decision of Judge O. D. Meyer of the Superior Court of Los Angeles rendered Thursday August 4, 1960, you are immediately enjoined from participating in any manner as a representative of the Brotherhood of Railroad Trainmen in California. In any instance in which a member of the Brotherhood has been injured or killed while on duty as an employee of any railroad operating in that state please return to me at once the commission as a Brotherhood investigator which I issued to you for the current year.

W. B. Kennedy, president."

Is that the telegram you have in mind?

A. Yes, sir.

Q. And attached to it is Mr. Dragmire's card for the year 1960, and is this the letter that you referred to, dated:

[fol. 438]

"August 19, 1960

"Room 1830,
1212 Broadway,
Oakland 12, California

"Mr. W. P. Kennedy, President
Brotherhood of Railroad Trainmen
1528 Standard Building
Cleveland 13, Ohio

"Dear Brother Kennedy:

"In reply to your wire of August 5, 1960 it is with the deepest regret that I enclose herewith my commission as an investigator for the Brotherhood of Railroad Trainmen for the year 1960. The privilege that you have extended me over the years as a Brotherhood in-

vestigator came at a most opportune time for me, because in 1949 I received a back injury while working for the Union Pacific Railroad, which resulted in a disc operation, and as a result of this injury and operation, I was not physically able to return to my job with the Union Pacific. My commission as an investigator provided me with a means of earning my living up to the present time, for which I have been very [fol. 439] grateful.

"Because of my limited education, it is difficult for me to obtain work other than with the railroad and my physical disabilities prevent me from ever returning to that type of work. For the present I will remain with Brother Hildebrand's office in Oakland, California, as an investigator for the law firm for the sole purpose of investigating cases that Brother Hildebrand may have come into his office in the future. This will probably be on a part-time basis.

"If at any time I can be of any service to you personally or the Brotherhood of Railroad Trainmen, I want you to know that I will be only too happy to accept any assignment that you might have for me.

"Kindest personal regards,

"Fraternally yours,

Harry S. Dragmire.

"Copy to C. R. Maher, Chief Clerk,
Department of Legal Counsel
Brotherhood of Railroad Trainmen,
Room 46, Standard Building,
Cleveland 13, Ohio."

Is that the letter accepting the thing that you had reference to?

[fol. 440] A. That's right.

Q. And is this the letter, August 24, or 25th, that is headed 1960 appears to be a copy,

"Mr. Harry S. Dragmire
Room 1830, 1212 Broadway
Oakland 12, California

"Dear Brother Dragmire:

"Thanks for your letter of August 17, 1960 and your investigator's commission card which you returned to the office in accordance with my wire of August 5, 1960. Your cooperation under these unpleasant circumstances is appreciated.

"With kind regards, I am,

"Faternally yours,

W. P. Kennedy, President

"Copy to

Mr. C. R. Maher, Chief Clerk,
Department of Legal Counsel."

Those are the letters that you had reference to?

A. That is correct.

Mr. Bowles, Jr.: I think that is all, sir.

Mr. Stallard: No more questions.

The Court: I want you to give me a few minutes, please.

[fol. 441] Mr. Bowles, Jr.: I have no further questions, sir.

The Court: I want you to give me a few minutes.

Mr. Bowles, Jr.: I beg your pardon, sir. I didn't know whether you understood that I was through.

The Court: Yes, sir, I did.

Mr. Chase, I am taking a preliminary view of some of this record on yesterday. I found myself quite mystified by Plaintiff's Exhibits 36 and 37. They are letters. These two letters are from Mr. Kennedy, your president to Mr. Bernard M. Savage. They are both dated October 12, 1949. I want you to read these, if you will. The first one cancels the appointment of Mr. Savage as regional counsel. The letter is the same date which is Exhibit 37,

"Because of your outstanding success and so forth, I have decided to reappoint you effective the 15th of October."

I didn't see anything in President Kennedy's deposition relative to those two letters.

Mr. Bowles, Jr.: Yes, sir.

The Court: There is something in there?

Mr. Bowles, Jr.: Yes, he explains that fully. He says it is a situation very much like when a new president comes [fol. 442] into the United States, that all of the ambassadors all over the country resign, as a matter of technical things, and then he reappoints them. It is a courtesy extended to the incoming president.

The Court: And that is in the deposition now? May I strike that from the record?

Mr. Bowles, Jr.: I don't think this gentleman would know—

The Court: I don't think so, but I was quite mystified. Strike what I have said from the record, please. I don't know how I missed that in there.

Mr. Bowles, Jr.: Well, I think it is just a casual remark.

The Court: It is all right, if it is there.

Mr. Bowles, Jr.: It is in there.

The Witness: I can say this, from my own knowledge, Your Honor—

The Court: Off the record.

Mr. Bowles, Jr.: I wish it to go on.

The Court: My question will be deleted from the record unless counsel insists otherwise, because I did not know that it had been taken up.

Mr. Bowles, Jr.: Well, now, Your Honor, I am looking [fol. 443] at this. I have an index to this testimony down at my office.

The Court: Well, the explanation satisfies me.

Mr. Bowles, Jr.: Well, I think that it is in there. There is so much that has gone on in there.

The Court: That was the time Mr. Kennedy became president?

The Witness: Yes, sir, he became president.

The Court: Your explanation is satisfactory to me. I am sorry I asked the question.

Mr. Bowles, Jr.: It is very pertinent, if Your Honor please. We expect to bring that to your attention.

The Court: I have withdrawn my question.

Mr. Bowles, Jr.: Well, Your Honor, you don't understand my position, apparently. If I am in error in what I said to you, that it is in President Kennedy's deposition, I want that fact in the record.

The Court: If it was at the time that Mr. Kennedy took office as the president, I am no longer mystified and withdraw my question.

Mr. Bowles, Jr.: Well, is it conceded that that is a fact?

Mr. Stallard: Yes, that is what took place. Everybody resigned and they started all over.

[fol. 444]

PLAINTIFF RESTS

The Court: Now, that completes the plaintiff's case?

Mr. Bowles, Jr.: That is correct.

The Court: And you are continuing with your evidence and you have completed your examination?

Mr. Stallard: I have completed my examination.

The Court: You have completed your redirect?

Mr. Bowles, Jr.: He was about to tell me—

Mr. Stallard: I wanted to ask him one question.

Mr. Bowles, Jr.: Of this witness, you mean?

The Court: Yes.

Mr. Bowles, Jr.: Oh, yes, sir, I am through.

Recross examination.

By Mr. Stallard:

Q. You have here for the year 1960 \$23,410.31 paid into general fund; does that represent contributions in '60 or '59?

A. I think from our auditor's explanation, some of that possibly comes from the early part of '59. Some of it might have been paid in for investigators' salaries only.

Mr. Stallard: Well, now, going back to the—

Mr. Bowles, Jr.: Well, may I note an objection? You say "you think" from something; isn't that all in what we [fol. 445] have shown here, Mr. Stallard, if it isn't, I am mistaken.

Mr. Stallard: Well, if it is, it is not very important then.

Mr. Bowles, Jr.: Well, if he doesn't know about it, I would object to his testifying about it.

A. That is the information furnished me, Mr. Bowles, as I told you; I didn't know anything about it.

Mr. Bowles, Jr.: That is all hearsay, sir. That is the reason I am objecting, and I understand that these records that have been put in show these facts. Now, if I am not correct about that—isn't that a fact, Mr. Stallard?

Mr. Bowles, III: The transcript contains an explanation of it.

Mr. Stallard: I don't know what you have in mind, Mr. Bowles. I know what I have in mind, but I can't transport what you are thinking into my mind, and list it. I don't think it is very significant, to be very frank with you.

Mr. Bowles, Jr.: I move to strike it out, if it isn't very significant.

The Court: Do you withdraw the question?

Mr. Stallard: No, sir, I will leave the question on the [fol. 446] record, and you can rule on it.

Mr. Bowles, Jr.: Well, then, Your Honor, I must pursue it.

The Court: Will you read the question, please?

(The court reporter read Mr. Stallard's last question, as follows:

"Q. You have here for the year 1960, \$23,410.31 paid into general fund; does that represent contributions in '60 or '59?")

The Court: You object to the question?

Mr. Bowles, Jr.: Your Honor, my son tells me that all of that explanation of that item from the original record is contained in this so-called transcript that is coming to the Court, and the person that made the entry tells what it is about. Now, this gentleman doesn't know what went on.

The Court: If you don't know, Mr. Chase, of your own knowledge, what that item represents, will you say so?

A. Well, from my own knowledge, I can't say that I do. I know that is what the bookkeepers and Mr. Maher told me it represents, that I can tell you.

Mr. Bowles, Jr.: That is in the transcript, I understand.
 [fol. 447] The Court: Well, whether it is in the transcript or not, by the witness' own statement, it is hearsay and your objection is sustained.

DEFENDANT RESTS

Mr. Stallard: The defendant rests, Your Honor.

Mr. Bowles, Jr.: With the exceptions that have been noted in the record as to evidence that is coming, it is my understanding that both sides now rest in the presentation of testimony.

The Court: Unless you have some rebuttal evidence, the testimony will be closed.

Mr. Bowles, Jr.: That's right, sir. We have indicated what other further evidence we actually have.

The Court: Several times.

Mr. Bowles, Jr.: Yes, sir. Well, you said unless we do, and I don't know exactly what you meant by that, sir.

The Court: I was going to try to put it in the record, Mr. Bowles. You see, we have to take turns talking.

Mr. Bowles, Jr.: What? I can't hear you, sir.

The Court: We have to take turns talking. I was going to put something in the record.

Mr. Bowles, Jr.: Oh.

[fol. 448] The Court: The Court announces that subject to the introduction of documents which have already been referred to, the testimony in the case is now closed. Shall we excuse Mr. Chase?

Mr. Bowles, Jr.: We certainly can, sir.

The Witness: Thank you, sir.

(Witness excused.)

MOTIONS OFFERED BY MR. STALLARD

Mr. Stallard: Your Honor please, I have some motions to make, eight motions, to be exact. They are written motions that I have furnished counsel for the Bar copies of them. The first motion concerns exhibits filed with the depositions of W. P. Kennedy.

The Court: Shall we take them one at a time?

Mr. Stallard: Yes, sir.

The Court: Hand me the motions, please, sir. You have seen copies of this, Mr. Bowles?

Mr. Bowles, Jr.: I think so, sir. I have received a batch of motions here today. Whether they are the specific part you are looking at, I don't know.

(Mr. Warriner, the Clerk, steps into the courtroom.)

[fol. 449] Mr. Bowles, Jr.: May the record show that the originals are returned to Mr. Chase?

The Court: It should show that, I believe. Does the record show that would be done?

Mr. Bowles, Jr.: Yes, sir. I would like to show that it has been done.

(Discussion off the record.)

The Court: I am striking everything that is on the record after I announced that the evidence was closed.

Mr. Bowles, Jr.: What is it you are striking out, sir?

The Court: Read the motion made by Mr. Stallard, please.

(The court reporter read back Mr. Stallard's motion.)

The Court: Nothing has happened then on the record except the mention of the several motions, and we are coming to that in a minute.

Mr. Bowles, Jr.: I am sorry, sir, but I am utterly confused. I just think it would be an awfully good idea if we [fol. 450] stopped this on-and-off-the-record altogether, because it gets me so mixed up as to what is there and what I want to preserve on this record, that I just don't know where I am.

The Court: I am striking out only, Mr. Bowles, what was said by Mr. Stallard after the Court announced that the evidence was closed, and he began to take up these motions. I just want him to begin to take up these motions all over again, because I want to put the return of these audits to Mr. Chase in accordance with your suggestion and then go on with the motions.

Mr. Bowles, Jr.: I understand, sir, but I didn't until that explanation was made, and I am just sorry I am so dumb.

- The Court: I give you my assurance that everything counsel wants on the record is going on the record. I go off the record simply because sometimes we can accomplish a good bit informally, and anything that happens informally you can put on the record.

Mr. Bowles, Jr.: May I say to the Court that I have also lost sleep for the past six weeks, and if you will please stay on the record, so as to do that personal favor for me, because I am getting to the point that I cannot understand. I cannot grasp what is going on, and it confuses me, and [fol. 451] as a personal favor, I would appreciate your not doing it.

The Court: Does that include conferences with counsel in chambers?

Mr. Bowles, Jr.: What is that, sir?

The Court: Does that include conferences with counsel in chambers?

Mr. Bowles, Jr.: No, sir, it does not, unless I request it to be done.

The Court: I have said you can have anything on the record that you request. Your request now is that everything that occurs in the courtroom from now on goes into the record, including the arguments of counsel?

Mr. Bowles, Jr.: If Your Honor please, may I make a simple statement? You have made the statement that you are going to strike off everything that was said after a certain point out of this record. My mind is incapable of knowing what everything since a certain time is, so I don't know whether I agree with you or whether I don't agree with you, and I just am unable to say yes or no, whether it goes in or whether it doesn't, because I don't know what you are talking about.

The Court: I want to put this on the record pursuant to your suggestion. Before there is any recess, and I will put it on right now, without striking anything. This is your [fol. 452] suggestion. I am going to adopt your suggestion.

Mr. Bowles, Jr.: What is my suggestion, sir?

The Court: That I let the record show that these photostats of the pages from the auditor's reports have been made, identified, and filed, and the originals of those are returned to Mr. Chase.

Mr. Bowles, Jr.: That is all I tried to get into the record, sir.

The Court: That is what I am trying to get in now.

Mr. Bowles, Jr.: So am I, sir, but I don't see how that happens to include striking out something that has gone on before.

The Court: It would be just a little more orderly before taking up the motions.

Mr. Bowles, Jr.: I don't agree that it is orderly.

The Court: It is just a difference of opinion, Mr. Bowles, that everything has happened except this colloquy I expect is to be stricken from the record. Is that all right?

Mr. Bowles, Jr.: I don't know, sir. Will you give me a recess, please?

The Court: Yes, I will. Mr. Bowles, Jr., you stay while [fol. 453] I put these in the record?

(Mr. Bowles, Jr. leaves.)

The Court: The photostatic copies taken from the auditor's books are now identified and filed as Plaintiff's Chase Exhibit K. Mr. Bowles, you may go if you want. All I am going to do is the formal matter of putting this in and saying—

Mr. Bowles, III: I know. If you prefer, I will remain, sir.

The Court: I know you are anxious, sir, and I will excuse you. It is just a formality.

Mr. Bowles, III: I realize that.

The Court: I am going to return these, and that is all I am going to do in your absence.

Mr. Bowles, III: I appreciate the courtesy of the Court, sir.

The Court: The photostatic copies taken from the auditor's book are now identified and filed as Plaintiff's Chase Exhibit K-1950 to K-1960, inclusive, eleven in all, and in pursuance to the understanding, the original audits are now returned to Mr. Chase, who is excused from further attendance on court.

Mr. Chase: Thank you.

(Plaintiff's Chase Exhibit Nos. K-1950 through and including K-1960, being photostatic copies of the original [fol. 454] schedules, were marked and received in evidence.)

The Court: Now, that will be all clear on the record.
The Court will now recess.

(Whereupon, the trial was concluded at 11:40 a. m.,
October 13, 1961.)

[fol. 455] Certificate of Counsel as to transcript (omitted
in printing).

[fol. 456] Judge's and Clerk's Certificates to foregoing
transcript (omitted in printing).

[fol. 457] [File endorsement omitted]

IN THE CHANCERY COURT OF THE CITY OF RICHMOND, VIRGINIA

COMMONWEALTH OF VIRGINIA, ex rel., Virginia State Bar,
Complainant,

vs.

BROTHERHOOD OF RAILROAD TRAINMEN et al., Defendants.

Report of Conference—October 12, 1961

Report of conference with the within-named persons at
the offices of the Brotherhood of Railroad Trainmen, Rooms
1428 and 1246 Standard Building, Cleveland, Ohio, on
Thursday, October 12, 1961, commencing at 4:15 p.m., con-
cerning matters involved in the above-entitled action.

PRESENT:

Persons at various times during the conference: Mr.
Aubrey R. Bowles, III, Mr. Beecher E. Stallard, Mr. W. E.
B. Chase, Mr. J. W. Orpin, Mr. Joseph F. Powers, Mr.
Charles R. Maher, Mrs. Virginia Clark, Mr. William E.
Ferris, Notary Public.

[fol. 458] Offices of: Brotherhood of Railroad Trainmen, 1428 Standard Building, Cleveland, Ohio, Thursday, October 12, 1961, at 4:15 p.m.

(During the conference the following persons were duly sworn by the Notary: W. E. B. Chase, J. W. Orpin, Joseph F. Powers, Charles R. Maher, and Mrs. Virginia Clark.)

STIPULATION BETWEEN COUNSEL

Mr. Bowles: It is stipulated between counsel that all persons having to do with the producing of records on October 12, 1961, in the Standard Building, Cleveland, Ohio, being the home office of the Brotherhood of Railroad Trainmen, would be under oath and that this transcript contains the statements of the respective parties and signatures are waived.

COLLOQUY BETWEEN COURT AND COUNSEL RE ACCESSIBILITY OF EXHIBITS

Mr. Stallard: Mr. Chase, make your statement you made downstairs.

Mr. Chase: Mr. Orpin, who is my General Auditor, Mr. Bowles, representing the State Bar Association of Virginia, wants the available records we have in connection with the receipts from the Legal Aid Department and whatever disbursements we have had since whenever they are available. He wants to see the originals.

[fol. 459] Mr. Orpin: All right.

Mr. Bowles: And I'd like to state this for the record, that the Chancery Court of the City of Richmond, by its order of February 9, 1960, ordered the Defendant Brotherhood of Railroad Trainmen to produce all records relating to the operation of the Legal Aid Department, now styled the Department of Legal Counsel, and that on the 21st day of July, William E. B. Chase, who is the General Secretary and Treasurer of the Brotherhood of Railroad Trainmen, was served in Richmond, Virginia, with a subpoena duces tecum requiring that he bring all financial records of the Defendant Brotherhood of Railroad Trainmen relating to

the Legal Aid Department and the Department of Legal Counsel and all orders thereof to be produced before the Chancery Court of the City of Richmond on the 9th day of October, 1961, at 10:00 o'clock.

Mr. Stallard: May I ask, Mr. Bowles, that order of the Court on the Brotherhood of Railroad Trainmen, didn't it have a limit of five years at that time?

Mr. Bowles: I do not believe it had any limit.

[fol. 460] Mr. Stallard: I remember one order required us to produce the donations from the Legal Aid Department of—or contributions of Bernard Savage of Baltimore, and we produced for five years the contributions, which amounted to the same as Mr. Nelson gave in his deposition from Nebraska. And I thought the reason the department didn't go back any more than five years, there was a five-year limit, but, under the subpoena, I don't think there is any limit on the subpoena.

Mr. Bowles: That is correct, there is no limit on the subpoena.

Mr. Stallard: Although the Judge, I believe, said that he thought he would be reasonable. He wouldn't want any two or three carloads of papers.

Mr. Bowles: Now, also, on the 11th day of October, the Judge of the Chancery Court of the City of Richmond ordered Mr. William E. B. Chase, General Secretary and Treasurer of the Brotherhood, to produce said records before his Court on Friday, October the 13th, at 10:00 o'clock.

Just so there will be no misunderstanding, I would like to state for the record that what we want is all financial records relating to the operation of the Legal Aid Department or the Department of Legal Counsel showing all funds [fol. 461] coming in and going out, regardless of the nature or the source, including the salaries of the personnel, regardless of the type of personnel, from as far back as they have them to the 13th of October, 1961.

Mr. Chase: What are your available records, John?

Mr. Orpin: Well, could I—

Mr. Bowles: I might add this first. More particularly, the records believed to be in existence in the office of C. R. Maher, M-a-h-e-r.

Mr. Stallard: Well, counsel for the defendant understands that this office here has nothing to do with Mr. Maher's office.

Is that true?

Mr. Orpin: That is correct.

Mr. Stallard: We are going next over to Mr. Maher's office to try to get some photostats.

Mr. Chase: In other words, I made certain commitments to the Court in Richmond, Virginia, as to my responsibility in connection with these records and as to what records we had available, and I want as a matter of record Mr. Bowles to look at our records and tell us what he wants from this office. And then when we finish, we will go down to the office of Mr. Maher and Mr. Bowles can talk to him. [fol. 462] Mr. Bowles: I want it to be perfectly clear that we are not talking about photostats but the originals.

Mr. Stallard: I understand that we can take the originals? We can take them, could we? Are they looseleaf that we could?

Mr. Orpin: They are looseleaf, yes; up to a point, but isn't that rather dangerous? I mean how long would such records be—you spoke about October 13th?

Mr. Bowles: They would be taken to Richmond in the custody of your General Secretary and Treasurer and delivered to the Clerk of the Chancery Court of the City of Richmond.

Mr. Orpin: And you mentioned October 13th?

Mr. Bowles: That's true.

Mr. Stallard: That's tomorrow.

Mr. Bowles: Tomorrow.

Mr. Orpin: I would like to add that we do have our audit reports here for ten years. That is, certified by Ernst & Ernst, Public Accountants, which shows exactly the same as our books. They have never found anything dollars and cents wise, I mean, like they will sometimes where a clerk [fol. 463] has made a mistake, but they tie definitely to our records. Now, that's one thing.

Now, when you speak about wanting to see the records, do you want to see our cashbooks, do you want to see our general ledger, or do you want to see the actual documents that go to support, for instance, the payroll?

Mr. Bowles: I would like to see as much material as you have regarding the financial operation of the Legal Aid Department and now the Department of Legal Counsel.

Mr. Orpin: Well, now, let me get Joe to see how far back these records are.

Mr. Bowles: Off the record for a moment.

(Discussion, off the record.)

Mr. Orpin: Probably the supporting data just for our disbursements and receipts are no further back than 1955, approximately, and prior to then and not further back than '47 are probably on microfilm.

Mr. Bowles: As far as bulk is concerned, what size is it? Does it occupy a filing cabinet or several filing cabinets? [fol. 464] Mr. Orpin: It could. After we took it out and assembled it in one place, it could maybe fill a couple of filing cabinets. That's a guess, now. But, you see, we have the payrolls, which happen twice a month, and then all disbursements for salaries were twice a month, and those are in voucher envelopes.

Mr. Bowles: Would you have the disbursements for salary, say, to Regional Investigators separate?

Mr. Orpin: Yes, that would be in a separate voucher.

Mr. Bowles: Well, I would like to have those for the dates previously mentioned. Have there been any other people other than Regional Investigators and the personnel of the Legal Aid Department on your payrolls as regards the operation of the Legal Aid Department or the Department of Legal Counsel?

Mr. Orpin: That's handled separate and it's a separate department, so all costs pertaining to that department would be charged to the Legal Aid or Department of Legal Counsel.

Mr. Bowles: Well, that is what I would like to see, as to the personnel in the office and the Regional Investigator or anybody else that might have been hired by Legal Aid and [fol. 465] paid by the Brotherhood.

Mr. Orpin: Well, that's a pretty big order. I mean time consuming. I kept a man around here tonight just for this purpose, so supposing we would work backwards from the present day.

Mr. Bowles: Well, as I understand, this is a problem of compilation, as far as you are concerned, of getting it together?

Mr. Orpin: Getting it together, yes.

Mr. Bowles: Perhaps we could leave you here getting that together and then go down to Mr. Maher's office and get him working on getting things together—

Mr. Orpin: All right.

Mr. Bowles: —from the standpoint of saving time.

Mr. Orpin: And you say that you want to take all the original records along insofar as our payrolls are concerned?

Mr. Bowles: Mr. Chase wants to take them along.

Mr. Orpin: Well, send them down, shall I say?

Mr. Chase: He wants them, but I am instructed to take them.

[fol. 466] Mr. Orpin: And this has to be done by tomorrow?

Mr. Chase: What sort of a problem is it, John? Where is the original record?

Mr. Orpin: Well, they are scattered through our files here and then in our subbasement.

Joe, when did we move the vouchers down? How many years' vouchers have you got up here?

Mr. Powers: We have actually only got the current year now, John.

Mr. Stallard: State your name so it will be on the record. What is your name?

Mr. Powers: Joseph F. Powers.

Mr. Bowles: And what is your position, sir?

Mr. Powers: Chief bookkeeper.

Mr. Bowles: For the Brotherhood of Railroad Trainmen?

Mr. Powers: That is right.

Mr. Stallard: Now, you ask him again. I'd like to know. I didn't hear it.

Mr. Orpin: The vouchers, you say you have up here the current vouchers, only for this year; the balance of them are downstairs?

Mr. Powers: That is right.

[fol. 467] Mr. Orpin: In our storage space in the subbasement?

Mr. Powers: Down in the storage space.

Mr. Orpin: And we can't safely state how far back they go before we put them on microfilm?

Mr. Powers: No, I couldn't really say, John, without looking at them.

Mr. Orpin: By examination down there, why, we could find out?

Mr. Powers: Oh, yes.

Mr. Chase: Do you have any book entries, John, in your ledgers that we could take which would include the pay-rolls?

Mr. Orpin: Well, it would include them in total.

Mr. Chase: That's right.

Mr. Bowles: But it would not show the individual person to whom the payment was made?

Mr. Orpin: No.

Mr. Bowles: What I want are the records that will show the total amount of payments to the individual and each separate payment to the individual.

Mr. Orpin: Of course, it wouldn't be a balancing feature, but our Tax Department cards would show each payment. It would make a much smaller package.

[fol. 468] Mr. Bowles: Well, is this a process of getting these together that would take several hours or can you estimate the amount of time?

Mr. Orpin: Yes, I would say it would take a good several hours, yes.

Mr. Bowles: So it would be impossible for us to make an 8:00 o'clock plane to take it?

Mr. Orpin: You mean 8:00 o'clock tomorrow morning?

Mr. Bowles: 8:00 o'clock tonight.

Mr. Orpin: Joe, you can answer that.

Mr. Powers: Well, just what—

Mr. Orpin: All vouchers concerning the Legal Aid or the Department of Legal Counsel for as far back as they can be furnished.

Mr. Powers: Oh, I would say we could never be able to have it out by tonight, John, I mean, because it means going through all these vouchers. I mean by that we have to

pull the stuff out, because some vouchers, as I record them, they pertain to something else also.

Mr. Orpin: That is right.

Mr. Powers: So you have to pull out each individual support, and that's a tremendous task, I mean. I don't [fol. 469] think I could have it done. I know I couldn't.

Mr. Bowles: Could it be done, say, by tomorrow morning, do you think?

Mr. Powers: That just depends how long I work, I mean.

Mr. Chase: On those tax deductions, wouldn't that give the information necessary, John?

Mr. Orpin: Yes, we could.

Mr. Chase: Do you have a ledger with the entries on them?

Mr. Orpin: Yes, there is a ledger that contains the total accumulated monthly—or daily transactions. Those are posted on one total to the general ledger each month.

Mr. Bowles: Well, you all must remember that I am a lawyer, not an accountant or a bookkeeper.

Mr. Orpin: Well, you can take this off the record.

The Notary: Is this off the record?

Mr. Bowles: Yes.

(Discussion, off the record.)

Mr. Stallard: State that over, Mr. Orpin.

Mr. Orpin: After April 30, 1960, there were no monies [fol. 470] paid out to Legal Aid Investigators. There were some in the first four months.

Mr. Bowles: Of 1960?

Mr. Orpin: '60. And nothing paid in '61.

Mr. Bowles: But the personnel of the Legal Aid Department or the Department of Legal Counsel, as it is now styled, have been paid?

Mr. Orpin: Yes, sir.

Mr. Bowles: By your office?

Mr. Orpin: Yes, sir.

Mr. Bowles: Up to whenever the last paycheck went out?

Mr. Orpin: That is right. It was—well, to be exact, it was the last day—or the 29th of September now. Tomorrow happens to be another payday.

Mr. Stallard: Let me ask, can you tell us what the contributions were from Legal Counsel to the Department? Do you have that broken down?

Mr. Orpin: No, sir.

Mr. Chase: When were the last contributions made, John?

Mr. Stallard: When was the last money you got from the Department of Legal Counsel?

[fol. 471] Mr. Orpin: You mean from the Regional Counsel?

Mr. Stallard: Yes, and how do you get it and when do you get it?

Mr. Orpin: Well—

Mr. Bowles: May I interrupt?

Mr. Stallard: That's all right.

Mr. Bowles: This man has not been put under oath.

Mr. Stallard: Put him under oath.

Mr. Bowles: You put him under oath and get him to subscribe to all the previous statements he has made.

Would that be agreeable with you?

Mr. Orpin: Surely.

Mr. Stallard: I think that would be all right.

Mr. Bowles: As well as this gentleman here, too.

Mr. Stallard: Be in the form of a deposition.

Mr. Bowles: Without notice.

Mr. Stallard: Well, by agreement of counsel. Not without notice, by agreement of counsel.

[fol. 472] (Messrs. Chase, Orpin, and Powers were duly sworn by the Notary.)

Mr. Stallard: I don't remember the last question I asked him now.

I asked you what were the contributions?

Mr. Chase: Go ahead. Excuse me.

Mr. Stallard: How do they come in? Do they come in monthly or weekly?

Mr. Orpin: Well, that we cannot answer, and Mr. Maher will answer that, because when we make deposits here, they are made, we get copies of deposits that are made; but Mr. Maher's office knows in no way whether those are re-

funds from General Counsel for investigators' salaries or what.

Mr. Bowles: All of the financial operations of the Legal Aid Department, or now the Department of Legal Counsel, are carried on through the office of the General Secretary and Treasurer or do they have a separate bank account of their own?

Mr. Orpin: No, it's carried through the office of the General Secretary and Treasurer and deposited with all other receipts.

Mr. Bowles: And I gather that your records, other than the payment to the individual Regional Investors and personnel in the Legal Aid Department and Department of [fol. 473] Legal Counsel, as far as contributions by Regional Counsel, or now Legal Counsel, your records only reflect a lump sum or a figure at an end of a certain period of time but do not reflect each individual amount of money that came in from each individual Legal Counsel—

Mr. Orpin: That is correct.

Mr. Bowles: —or Regional Counsel? And I believe you stated that Mr. Maher would have those records in his office?

Mr. Chase: Maybe I didn't understand that. You meant by that, Mr. Bowles, that as far as the general auditor is concerned, the only thing he received were lump sum payments that were deposited in distribution, but didn't receive any broken down—

Mr. Bowles: Journals.

Mr. Chase: —list or journal of who they were from?

That's what you answered?

Mr. Orpin: That is right. That's what I understood your question to be.

Mr. Bowles: But just the amount of money?

Do I also—correct me if I am mistaken—understand that your office assisted Mr. Maher in working out the percentage [fol. 474] contributions to be made by Regional Counsel or Legal Counsel?

Mr. Orpin: Well, I did that as a clerk, because I have a machine on my desk. I have no record of that at all. Just the same as I will calculate anything for anybody that comes in.

Mr. Bowles: Right.

Mr. Chase: In other words, you just made a calculation, but you don't have any record of it or didn't know what it was from?

Mr. Orpin: I have no record of it, no, sir.

Mr. Stallard: I would like to ask you, Mr. Orpin, if you could tell us the amount of money that came in through the Department of Legal Aid last year, 1960?

Mr. Orpin: Yes, we can tell you that.

Mr. Stallard: What is that?

Mr. Orpin: It's \$23,410.31.

Mr. Stallard: Do you know what that represents? Do you have any idea?

Mr. Orpin: No, sir.

Mr. Chase: What came in this year, Mr. Orpin?

Mr. Orpin: Not a thing. There hasn't been one penny [fol. 475] returned this year.

Mr. Stallard: Well, now, we'd have to ask Mr. Maher to find out what that represented, would we?

Mr. Orpin: Yes.

Mr. Stallard: I see. You just don't know?

Mr. Bowles: I am handing you a photostat of Nelson Exhibit A, filed in the proceeding in Virginia, and I ask you if you can recognize any of the handwriting on there as yours or any member of your staff? Now, I am not talking about the ball point pen writing which was written on since that was photostated.

Mr. Orpin: No, sir, I wouldn't recognize that writing. Let me look further. None of it is mine.

Mr. Bowles: And you do not recognize the person whose writing it might be?

Mr. Orpin: No, sir. In fact, I have never seen these papers before.

Mr. Chase: That's the first time I ever saw them was the day before yesterday.

Mr. Bowles: If Mr. Stallard has no objection, I would like to put that paper in with this—

[fol. 476] Mr. Stallard: Put it in here, yes.

Mr. Bowles: —as Exhibit—

Mr. Stallard: That's all right.

Mr. Bowles: Call it Orpin 1.

Mr. Stallard: Just say Exhibit 1.

Mr. Chase: How would it be an exhibit of Orpin's?

Mr. Bowles: Well, I presented it to him.

Mr. Stallard: No, you didn't.

Mr. Bowles: He did not identify it.

Mr. Stallard: I think by stipulation we can do that.

Mr. Bowles: So it can show that he did not do this.

Mr. Chase: That is right.

Mr. Bowles: And I am vouching for the record that this is a photostatic copy of Nelson Exhibit A heretofore filed in this proceeding.

Mr. Stallard: Well, that is a copy, I imagine.

Mr. Bowles: That is a copy of a photocopy.

Mr. Stallard: Yes, that's all right.

[fol. 477] Mr. Stallard: I think Maher might identify that. He might. I don't know.

Mr. Orpin: I have no idea. I recognize no handwriting on there at all.

(7-page document marked, "Orpin Exhibit A.")

Mr. Bowles: Mr. Orpin, do you feel that the records that I have asked you for that you would be able to complete the compilation of them by tomorrow morning?

Mr. Orpin: You mean by that by working all night long? And then, I don't know, it's hard to determine how long it will take us.

Mr. Bowles: Well, you understand that this proceeding in Virginia is in process and that we have continued it to get these records, and I think we were all anxious to resume tomorrow morning at 10:00 o'clock in Richmond, if possible. Now, I understand from you that it would not be possible to get these records together in time to take them back to Richmond on an 8:00 o'clock plane tonight?

Mr. Orpin: No, that would be impossible.

Mr. Bowles: But you do think—

Mr. Chase: Let me ask you this question, Mr. Bowles. In view of what you have heard from Mr. Orpin, do you [fol. 478] think that information would be necessary?

Mr. Bowles: I do, sir.

Mr. Stallard: Well, I will tell you what we could do. You could come back. We get out tonight ourselves, but we won't cover that record. That's it. We could go down to see Mr. Maher and look at his records while Mr. Orpin was getting up some records. Then Mr. Bowles and I would come back up here and Mr. Bowles would either say, "That's the type of record I want. Will you get that up as far as you can and send it down to us at the Court at Richmond?" Then we might be able to catch a plane tonight and be in court in the morning.

Mr. Bowles: That is a possibility, depending on what we find. Now, when Mr. Stallard referred to "up here," I presume this is the 14th floor—

Mr. Orpin: Yes, sir.

Mr. Bowles: —we are on of the Standard Building?

The Notary: What is the room number here?

Mr. Orpin: Well, I always term it 1428 is the big door [fol. 479] outside there. The Standard Building.

Mr. Stallard: Well, we will slip on downstairs, then.

[fol. 480] Offices of: Brotherhood of Railroad Trainmen, 1246 Standard Building, Cleveland, Ohio, Thursday, October 12, 1961, at 4:45 p.m.

(CHARLES R. MAHER was duly sworn by the Notary.)

Mr. Bowles: Would you state for the record, Mr. Maher, your full name and position?

Mr. Maher: Charles R. Maher, M-a-h-e-r, Chief Clerk to the President of the Brotherhood of Railroad Trainmen, assigned to supervising the Department of Legal Counsel and the Department of Research and Investigation.

Mr. Bowles: Now, would you state for the record, Mr. Maher, how long you have held this position?

Mr. Maher: This assignment has been since March 22, 1954.

Mr. Bowles: And before that, what position did you hold?

Mr. Maher: Before that I was a Brotherhood Investigator.

Mr. Bowles: What has been termed Regional Investigator?

Mr. Maher: Well, I was assigned a Region, yes. My title was Brotherhood Investigator.

[fol. 481] Mr. Bowles: You carried one of these investigator's commission cards issued by President Kennedy?

Mr. Maher: Yes, sir.

Mr. Bowles: And prior to that time, what position did you occupy?

Mr. Maher: Well, prior to that time, for forty-one some odd years, 41 years and some months, rather, I have held seniority as a yard brakeman and yard conductor on the Big Four Railroad at Danville, Illinois, which is a subsidiary and part of the New York Central System.

Mr. Bowles: Well, I believe you were Chief Clerk of this department for an eight months' period in '47?

Mr. Maher: Not as Chief Clerk. I was manager of the department when the title was manager, from June 1, 1947, until February 1, 1948.

Mr. Bowles: Now, you have produced copies of three ledger books or journal books or entry books, I believe you term them. Now, do these three volumes purport to be all the records that you have in your control relating to the financial transactions of the Department of Legal Counsel?

Mr. Maher: No, they are not.

[fol. 482] Mr. Bowles: What other records do you have?

Mr. Maher: I have in my control a ledger book in which has been put receipts and disbursements coming into and going out from the Brotherhood of Railroad Trainmen headquarters of items pertaining to the operation of the department I represent.

Mr. Bowles: Could you get that book, sir?

Mr. Maher: I can, yes, sir, but I want to tell you this: That book is not here in this office, because my office has been broken into twice. My desk has been broken into. And I am going to make damn sure that nobody sees that book, which is my private—or the department's private record of what has gone on, unless I have a court order that I am forced to produce it.

Mr. Stallard: Well—

Mr. Bowles: I think Mr. Stallard can explain that to you.

Mr. Stallard: Mr. Maher, the Court has ordered us to produce it. If you have got it locked up somewhere—I can

understand your apprehension—we will have to go and get it.

Mr. Maher: I will be put in jail before I go and get it, [fol. 483] unless my boss, the President of the Brotherhood, tells me to produce it.

Mr. Stallard: Well, as counsel for the Brotherhood, I have agreed that we would produce it.

Mr. Maher: Well, I will tell you this: If it's produced, it will be produced and not get out of my hands. And I will tell you another thing: I am under a doctor's care, and it will be produced here in Cleveland, it won't be produced in Virginia.

Mr. Stallard: No, you will not have to go down. I understand. I got your doctor's certificate saying we shouldn't even put you under oath. He said if you were to get apprehensive, you would get worked up. That's the wrong thing to do. Frankly, I didn't even think we were going to put you under oath. I had no idea.

Mr. Maher: Well, what I say—

Mr. Bowles: Well, let me state this for the record, Mr. Maher, that I have no intention through any questions I may ask of you in any way to jeopardize or endanger your health. However, as Mr. Stallard pointed out, the Chancery Court of the City of Richmond has ordered Mr. William E. B. Chase to bring these records back to Richmond by 10:00 o'clock tomorrow morning to be presented in court. [fol. 484] Mr. Stallard: No, counsel for the defendant won't agree with that. Mr. Chase has no control, as I understand it—

Mr. Maher: That is right, Mr. Chase—

Mr. Stallard: —over these papers.

Mr. Chase: For the sake of the record, Bob, have I ever seen these books before?

Mr. Maher: No, sir.

Mr. Chase: Do I know anything about your department?

Mr. Maher: You do not, as far as I know.

Mr. Chase: Have I ever seen the ledger of any of these things?

Mr. Maher: You have not.

Mr. Chase: Have I any control over them?

Mr. Maher: You have not.

Mr. Stallard: I'd like you to get them so we can inspect them. Maybe we could photostat some of them.

Mr. Maher: Well, that will entail a trip out to my home. That's where the ledger is, where I intended it should be, because—

[fol. 485] Mr. Stallard: Well, could you tell me what the ledger is?

Mr. Maher: Would you take this off the record?

Mr. Bowles: Well, I would like to have it on as to your description.

Mr. Maher: I want to tell you something off the record. Then if you want it on the record—

Mr. Bowles: All right.

(Discussion, off the record.)

Mr. Stallard: Go ahead.

Mr. Maher: The reason this ledger is in my possession at my home is due to the fact that in the suit filed against the Brotherhood and others in the State of California by the Santa Fe and the Southern Pacific Railroads, the attorney representing the Brotherhood stated that he had been told by the counsel representing the railroads that he knew exactly where Mr. Maher kept his private records, that it was in the right-hand drawer of his desk, "and we know exactly what is on it and everything about it."

Mr. Bowles: What is the purpose of your making this statement, to explain why the book is now at your home?

Mr. Maher: That is right. I don't intend—if my office [fol. 486] is broken into again, I don't intend that that ledger shall be found in my right-hand drawer or any place else in the office.

Mr. Bowles: That book, as I understand it, shows the receipts from the various Regional Counsel—

Mr. Maher: That is right.

Mr. Bowles: —or Legal Counsel, as they are now called?

Mr. Maher: Yes, sir.

Mr. Bowles: From what date to what date, do you know?

Mr. Maher: Well, that ledger—now, I don't remember the date of the first entry in that, but it's a complete record of all the transactions.

Mr. Bowles: Now, these three volumes which you have produced and that record which is in your possession at your home, do they consist of all the records, financial, relating to the operation of the Legal Aid Department and the now styled Department of Legal Counsel?

Mr. Maher: Well, that particular ledger—now, as I stated, I don't know the date of the first entry in it, but it's a complete record. From whatever date the first entry was made, it encompasses—

Mr. Bowles: Well, what I am getting at is the four books [fol. 487] I have described—

Mr. Chase: Excuse me just a minute. Off the record.

(Discussion, off the record.)

Mr. Bowles: Let's get back on the record and just let me identify what books you do have. You have these three books which you have produced before me. Do you have this ledger book in your home—

Mr. Maher: Yes, sir.

Mr. Bowles: —which shows all the contributions to the Legal Aid Department or from Regional Counsel and other information, and you don't know offhand how far it goes back?

Mr. Maher: No, I don't know just exactly when the first entry was made in that.

Mr. Bowles: Do you have any other records besides the four volumes that I have just described pertaining to the financial operations of the Legal Aid Department of the Brotherhood of Railroad Trainmen?

Mr. Maher: No, we do not. The whole record—now, these, as I stated before, are entry books.

These are just for the daily entries from which you [fol. 488] later took the figures and entered them into the main ledger book, is that right?

Mrs. Clark: Yes, sir.

Mr. Bowles: What does this main ledger book contain?

Mr. Maher: As I stated, all of the receipts and disbursements in connection with the operation of the department.

Mr. Bowles: That is the book you have at home?

Mr. Maher: That's the one I have at home.

Mr. Bowles: Now, are there any records here showing, say, payments to Regional Investigators?

Mr. Maher: Not here. Well, now, we have those deposit sheets where we deposited the checks and anything that came in into the General Fund—

Mrs. Clark: Yes.

Mr. Maher: —or the Protected Fund. We have those.

Mr. Bowles: Could I see those?

Mr. Maher: Yes.

Would you get them, please, Virginia?

Mrs. Clark: For which year?

Mr. Bowles: How many books does it involve and for [fol. 489] how far back does it go?

Mr. Maher: This doesn't involve any books. These are the deposit sheets which I made to the General Fund, one copy—well, get them, Virginia. It's easier to show them than explain them.

This is for the year 1960, I believe, the year that's in question.

Mr. Bowles: Would you state this young lady's name into the record, please?

Mr. Maher: Mrs. Virginia Clark.

The Notary: C-l-a-r-k?

Mrs. Clark: That is correct.

Mr. Bowles: Could I see those, please?

Mr. Maher: Yes.

(Mrs. VIRGINIA CLARK was duly sworn by the Notary.)

Mr. Bowles: Now, how far back do these records go, Mr. Maher?

Mr. Maher: Well, those kind of records have been kept ever since I have been in this job, and I have reason to believe that they were kept by my predecessor and by his predecessor.

Mr. Stallard: May I ask him some questions?

How do you calculate the pro rata contribution by the [fol. 490] former Regional Counsel and now Legal Counsel? The contributions that were made, when do you calculate that?

Mr. Maher: Well, when those records were being kept and counsel were notified as to their proportionate share

for the operation of the department; the figures were based upon all the settlements which had been made by all of the Brotherhood Legal Counsel for the calendar year.

Mr. Stallard: When would you send them a bill for their pro rata share of the percentage?

Mr. Maher: Well, that was later broken down after the end of the year. That was later broken down into how much each of the Brotherhood counsel—the number of cases they had settled, the amounts they had recovered, and so forth, and the entire total was figured at 100 percent. Then I am not an accountant or too good at figures, so I took those figures to our Chief—John's title is Chief Auditor?

Mr. Chase: Yes, General Auditor.

Mr. Maher: —General Auditor, John Orpin, and had those broken down into percentages relating to the grand total of 100 percent.

Mr. Bowles: Now, what period of time are you talking about?

[fol. 491] Mr. Maher: That's for a year. A one-year period, that is correct.

Mr. Bowles: And that continued up through 1960?

Mr. Maher: No, that continued through 1958. There have been no notices sent to any of the counsel since December 31, 1958.

Mr. Bowles: Now, you have produced a file.

Mr. Stallard: Let me ask him to clarify it.

You say through '58. Now, did you receive any money in '59 or '60?

Mr. Maher: Oh, yes. There was some money received in—well, in fact, practically all of the money was received in '59 for the business that was done in '58.

Mr. Stallard: Well, did you receive any money as far as investigators were concerned—

Mr. Maher: Oh, yes.

Mr. Stallard: —from the Regional Counsel?

Mr. Maher: In 1960, we received the money which was to cover the salaries of the investigators who were at the time on the Brotherhood payroll.

[fol. 492] Mr. Stallard: Why were they on the Brotherhood payroll?

Mr. Maher: Well, the reason—the main reason is that I would say every one of the investigators who was on the Brotherhood payroll held seniority on some railroad, and in order to keep their record in good standing with the Railroad Retirement Board as being in an employment connection with a railroad, being in an employment connection with the Brotherhood is the same as an employment connection with the railroad.

Mr. Stallard: Do I understand that—

Mr. Bowles: Mr. Stallard, may I suggest that we take up this questioning in some order rather than you asking him questions and I asking him questions—

Mr. Stallard: All right.

Mr. Bowles: —intermittently!

You have produced here, Mr. Maher, a file folder dated 1960 entitled, "Deposit slips"—

Mr. Maher: Yes.

Mr. Bowles: —in which, taking the first page, it contains an addition or adding machine list, and then the first page says, "This is to cover disbursements to George J. [fol. 493] Rerat, Lodge 625, through 1960, per President Kennedy's letter of May 26, 1960." Do you offhand know what that letter of May 26th is?

Mr. Maher: Well, as far as that's concerned, about George Rerat, George Rerat was an investigator on the Brotherhood payroll up until the time all of the investigators were taken off the Brotherhood payroll, which was April 30, 1960.

Mr. Bowles: Now, you state that George J. Rerat was a Regional Investigator?

Mr. Maher: He was.

Mr. Bowles: In this file is a letter of April 18, 1960, addressed to Mr. Kennedy and Mr. Chase. It says, "Dear Sir and Brother: Kindly deposit the attached check in the amount of \$250 to the General Fund of the Brotherhood." And there is a penned notation on the right-hand corner, "N. J. Armstrong, Number 375." Was he a Regional Investigator?

Mr. Maher: No, that is a check that was sent in to cover the cost of the investigation that was made in the case of N. J. Armstrong.

Mr. Bowles: Of Lodge Number 375?

Mr. Maher: Yes.

Mr. Bowles: And it states also, "Investigation expense."

Mr. Maher: Yes, that is right.

[fol. 494] Mr. Bowles: And then it says, "Henslee & Henslee contract."

Mr. Maher: That was the contract, yes.

Mr. Bowles: Do I interpret this correctly as a check sent in by Henslee & Henslee to reimburse the Brotherhood?

Mr. Maher: By the direction of the client, yes.

Mr. Bowles: To reimburse the Brotherhood for what expense?

Mr. Maher: For the investigation that was made by a Brotherhood investigator.

Mr. Bowles: Now, I also have a letter in the same file of April 5, 1960. On the right-hand top corner it says, "Yaeger & Yaeger salaries." Who are Yaeger & Yaeger, do you know?

Mr. Maher: Yaeger & Yaeger are Brotherhood attorneys in Minneapolis, Brotherhood Legal Counsel.

Mr. Bowles: And that letter is the same form as the other previously read, but the amount of money is \$1000. What does this "salaries" represent?

Mr. Maher: That salary represents the salary of the [fol. 495] Brotherhood Investigator in Yaeger & Yaeger's area.

Mr. Bowles: Do you happen to know who that fellow is?

Mr. Maher: Yes. Tom Yaeger.

Mr. Bowles: On April 1, 1960, a letter of that date, of similar form, the amount of the check being \$117.24, and in the right-hand top corner it is marked, "Hildebrand salaries." Would that be to a man like Harry Dragmire?

Mr. Maher: Dragmire or Bockhold, it might be either one of them.

Mr. Bowles: Of course, sir, I haven't had time to go through this file completely, but does it, to your knowledge, also contain similar letters with relation to, say, Mr. Bernard Savage?

Mr. Maher: Yes.

Mr. Bowles: And for the payment of his investigator, Mr. Norris W. Tingle?

Mr. Maher: Yes. However, when you say, "his investigator," when Tingle was on the Brotherhood payroll, he was on the payroll as a Brotherhood Investigator.

Mr. Bowles: I am incorrect. Then I should have said the Brotherhood's Investigator assigned to Mr. Bernard M. [fol. 496] Savage?

Mr. Maher: Well, he was assigned to Mr. Bernard M. Savage's jurisdictional area.

Mr. Bowles: Now, do you have a similar file as this pertaining to 1961?

Mr. Maher: Well, I think we could dig up—now, did you say '61?

Mr. Bowles: '61, yes.

Mr. Maher: There have been no deposits in 1961.

Mr. Bowles: There have been none?

Mr. Maher: No.

Mr. Bowles: When did these deposits discontinue?

Mr. Maher: Now, if I am not mistaken, there were some deposits came in in 1960, which were to be applied on the balance of 1958.

Mr. Bowles: Or maybe another previous year?

Mr. Maher: Well, I don't think any earlier than 1958.

Mr. Bowles: But most of these letters represent figures to be applied to the balance of 1960?

Mr. Maher: There was no balance of 1960.

[fol. 497] Mr. Bowles: Would you have or could you get photostatic copies of these checks or would they have been returned through the bank to the man who drew them?

Mr. Maher: I don't know whether—that's a department that I don't know anything about.

Mr. Bowles: How far back do records go of a similar nature to this one, "1960, deposit slips"?

Mr. Maher: Well, I'd say they don't go back any farther than five years insofar as our records are concerned, for the reason that we eventually run out of space for records here and we aim to keep—

Mr. Bowles: Then you take them to the basement?

Mr. Maher: We take them to the basement.

Mr. Bowles: You have about two years more in the basement and then out they go?

Mr. Maher: When the custodian down in the basement calls and tells me, "We will have to have some more room down here," then the girls go down and they start with the oldest files and destroy any that we think couldn't be of any value for references, up to—we aim to keep them at [fol. 498] least seven years.

Mr. Bowles: Could you produce copies of files similar to these back to the five years of the seven years?

Mr. Maher: Do you think we have those in our possession, Virginia?

Mrs. Clark: I don't know if we have these, Bob, except the time that I took over. From the time that I took over in the job. I can't go back any further.

Mr. Bowles: I don't want to ask you the impossible, but, on the other hand, I would like to have them as far back as you are able to produce them.

Mr. Maher: Well, we will make every effort to get them and produce them.

Mr. Bowles: Now, then, do I understand that this book Number 1, book Number 2, and book Number 3, and the large journal book that you have at home, and files back approximately seven years from 1960, similar to this file, "1960, deposit slips," would then represent all of the financial records of this department relating to the incoming money and the outgoing money insofar as you have or know of?

Mr. Maher: Well, I would say yes, insofar as my knowledge [fol. 499] edge is concerned.

Mr. Bowles: There are no other records?

Mr. Maher: To my knowledge, there are none, no.

Mr. Bowles: I am sorry, I don't remember your name.

Mrs. Clark: Clark. Mrs. Clark.

Mr. Bowles: Mrs. Clark, would you subscribe also to that statement of Mr. Maher's?

Mrs. Clark: Yes, sir.

Mr. Bowles: And what he has stated is true, so far as you know?

Mrs. Clark: So far as I know, the three books that you mentioned and those records are the only financial statements from this department that I have any knowledge of.

Mr. Bowles: And this journal book or ledger book that Mr. Maher has at home, you know of that?

Mrs. Clark: Yes, sir.

Mr. Bowles: And they are all of the financial records of this department?

Mrs. Clark: Yes, sir, to the best of my knowledge.

Mr. Bowles: How long, Mr. Maher—I know this young [fol. 500] lady doesn't want to stay here all night, but how long would it take to get those up?

Mr. Maher: Now, that would be a question. I understand that our representative was reprimanded by the Judge down there because of the fact that I answered one of the questions by stating that—do you want this on the record?

Mr. Bowles: Yes, sir.

Mr. Stallard: Yes.

Mr. Maher: The request was made for a form that was issued in the year 1930, and, to my knowledge, there were no such forms in existence. My answer to that was these forms—I don't know my exact words, but these forms have long since either been used up or destroyed and replaced by more modern types of forms. And I think I added a little further to that statement by stating to dig back through records that may not be here to attempt to find such a form would entail the tying up of this department and it would seriously interfere with the normal operations of the department.

That's substantially the answer, wasn't it, Beecher?

And I understand that the Judge—and I will add a little bit further—I made every effort to produce everything that [fol. 501] was requested, but I understand the Judge reprimanded Beecher for my not producing that for him.

Mr. Bowles: I was present during that session and I don't think that Mr. Stallard was reprimanded, but the Judge just requested that the form be produced, if possible.

Mr. Maher: Well, then—

Mr. Chase: Let me ask you a question, Bob. As you know, I don't know anything about the Legal Aid Depart-

ment, but I have heard the questions pro and con all week in the court. Mr. Bowles' father refers to April the 1st, 1959, as the magic date, I think he called it. Have there been any contributions made by the Regional Counsel to the Department of Legal Counsel or Legal Aid Department since 1958 as such?

Mr. Maher: Well, yes, since 1958 there have been.

Mr. Chase: But none for the year '59?

Mr. Maher: No. There were none paid for the year 1959.

Mr. Stallard: Well, did you receive some contributions—when would they come in? Do you know when his department, meaning Mr. Chase's department, would get [fol. 502] them, or would you know?

Mr. Maher: Yes, whenever any sort of a contribution came in, you noticed on those slips that Mr. Chase is notated as receiving a copy of that. It's addressed to President Kennedy and W. E. B. Chase, General Secretary and Treasurer.

Mr. Bowles: And that money, as I understand it, was then put into the Protective Fund?

Mr. Maher: The General Fund.

Mr. Bowles: The General Fund.

Mr. Chase: Well, as far as contributions that came to my department, there were none as such after 1958? Anything that was received in 1959 was a 1958 payment?

Mr. Maher: It applied on 1958 business, with the exception, now, on occasion our counsel asked me to produce supplies for them, such as letterheads and envelopes, Brotherhood envelopes, and so forth. When those were produced, we charged them for them. There have been two or three checks come in paying for the supplies they ordered.

Mr. Stallard: Well, they wouldn't amount to very much?

Mr. Maher: Well, no. I think the largest one—
[fol. 503] Mr. Bowles: Let me see if I understand that correctly, Mr. Maher, that on occasions, and I understand not too numerous, but on occasions you have received checks from Regional Counsel for Brotherhood stationery or letterheads—

Mr. Maher: And supplies.

Mr. Bowles: —sent to them? And supplies?

Mr. Maher: Yes.

Mr. Bowles: You mean by that supplies, things like this FLA-2 form and FLD-2?

Mr. Maher: The forms, yes. And they are charged by the Brotherhood for those supplies.

Mr. Stallard: Well, let me try to find out. Mr. Chase has stated, and I think we have stated several times, that Regional Counsel did not make any contribution after April 1, 1959. Now, when would you receive those contributions if they were cut off exactly April 1st? When would counsel send them to you?

Mr. Maher: Well, would you take this off the record a minute?

Mr. Bowles: I would prefer to have it all on.

Mr. Maher: Well, then I will repeat it for the record, [fol. 504] but I want to make the remark and then you decide whether you want it on the record.

Mr. Bowles: I would prefer to have it on the record, sir, regardless of the nature of the remark. And if you are concerned about phraseology, I would be most happy to give you as much time as necessary to formulate the statement that you have in mind.

Mr. Maher: Well, I will say this: The operation of this department at the present time is based upon the opinion rendered by the Supreme Court of the State of Illinois in, I believe, May of 1958, if I am not mistaken, wherein the opinion stated that the Brotherhood may do certain things and may not do certain things. One of the things that the Brotherhood may ~~do~~ is to maintain a Legal Aid Department, which has since—the title has since been changed to the Department of Legal Counsel, and that representatives of the Brotherhood may inform an injured member of the Brotherhood or the surviving dependents of a member of the Brotherhood that the Brotherhood does have a lawyer known as a Brotherhood Legal Counsel located at such and such a place to whom they may go if they so desire.

The opinion further stated that as of July 1, 1959, the [fol. 505] Brotherhood must have its operation in order to

comply with the provisions of this opinion, and that after July 1, 1959, the Legal Counsel no longer make any contributions to the Brotherhood for any purpose and that the maintenance of the operation of the department must be paid for by the Brotherhood.

And I will say this—

Mr. Bowles: Excuse me, sir. Do you know what fund of the Brotherhood that is paid out of?

Mr. Maher: Well, that is something that I can't answer definitely. I would presume that it comes out of the General Fund of the Brotherhood.

Mr. Bowles: The checks for the operation of this department are issued to you by Mr. Chase or Mr. Chase's department?

Mr. Maher: Well, the checks are signed by the President of the Brotherhood as the President and by the General Secretary and Treasurer.

Mr. Bowles: And by Mr. Chase?

Mr. Maher: Yes, sir.

Mr. Stallard: Now, I want to get back to my question.

Mr. Chase: Bob, I had the information to explain to counsel and Mr. Bowles, Jr., and the 3rd in Richmond, but they wouldn't take advantage of the fact that I would give them [fol. 506] this information, but I told them since April 1, 1959, there have been no contributions whatsoever except those involving investigators.

Mr. Bowles: Well, Mr. Chase, don't think for a moment that I don't intend or Mr. Bowles, Jr., does not intend to take advantage of the information that you had with you in Richmond, but we also, as you well understand, wanted additional information which you did not bring with you.

Mr. Stallard: Well, let me get back. I still ask did you receive money, a contribution, up to July 1, 1959?

Mr. Maher: Yes, I think we did. What I started to tell, that I asked you to take off the record for a minute—and I will say it for the record—President Kennedy at a meeting of all of our Legal Counsel told them that he wanted them to put out every effort to get themselves in order so that the Brotherhood could be in order by the 1st of April, 1959, but that we did have until July 1, 1959, as the absolute deadline.

Mr. Bowles: Under the Illinois decision?

Mr. Maher: Yes, sir.

[fol. 507] Mr. Bowles: Now, what is the function of this department right now today?

Mr. Maher: Well, the function of the department is to keep records of every accident occurring on any railroad in the United States upon which members of our organization are employed, and that is practically every railroad in the United States, wherein the employee member of the Brotherhood is injured in an on-the-job accident.

Mr. Bowles: What other function does this department have?

Mr. Maher: The other function is to exert every effort of the Brotherhood to afford every protection the Brotherhood has available to that member or to the surviving dependents.

Mr. Bowles: Does your department in any way advise an injured member as to what his rights might be under, say, F.E.L.A. or the Safety Appliance Act or the Boiler Inspection Act?

Mr. Maher: Well, the department as such don't issue that sort of instructions. However, I will say that I have advised members, both orally and by letter—

Mr. Bowles: You realize, now, I am speaking now as of your operation of this department as of today?

[fol. 508] Mr. Maher: Yes.

Mr. Bowles: In 1961?

Mr. Maher: Yes, sir.

Mr. Bowles: And you have advised them orally and by letter to what effect?

Mr. Maher: Well, not in 1961, no. I have advised members that it would be advisable for them to get an opinion from a competent and honest attorney as to their rights.

Mr. Bowles: In 1961? You mean you have written a man in 1961, as I understand it, advising him that he should get hold of a competent attorney to advise him as to what his rights are?

Mr. Maher: Well, I don't recall writing any such letter in 1961.

Mr. Bowles: Well, in 1960?

Mr. Maher: Well, I may have in 1960. I don't particularly pick out any specific year.

Mr. Bowles: At the same time that you write that letter, do you also advise him who the Brotherhood Regional Counsel is in his territory?

Mr. Maher: I have done that, yes.

Mr. Bowles: In 1960?

Mr. Maher: I may have done that in 1960.

[fol. 509] Mr. Bowles: And in 1961, do you recall?

Mr. Maher: I don't recall writing any such letters in 1961. I may have. I don't have that good a memory to remember every letter or the contents that I write. I write numerous letters.

Mr. Bowles: No one does.

Mr. Maher: No, sir.

Mr. Stallard: Let me ask Mr. Maher some questions. How old are you, Mr. Maher?

Mr. Maher: I am—I was 69 years old July 15th, this year.

Mr. Stallard: You talk about investigators. You say you no longer have investigators on the payroll?

Mr. Maher: Yes, sir.

Mr. Stallard: Counsel asked you something about Harry Dragmire. Is he still on your payroll?

Mr. Maher: No, he is not.

Mr. Stallard: Do you know anything about him?

Mr. Maher: Well, yes. When did I know anything about him?

Mr. Stallard: Do you know him? Did you ever meet him?

[fol. 510] Mr. Maher: Oh, yes, I have met Dragmire, very personally. Know him personally.

Mr. Stallard: He is no longer on your payroll?

Mr. Maher: No, sir.

Mr. Stallard: Do you know any reason why?

Mr. Maher: Yes, he was taken off the Brotherhood payroll as an investigator the same date that all the rest of the investigators were taken off.

Mr. Bowles: And that was the only reason he was taken off?

Mr. Stallard: Wait a minute. I am going to ask him.

Mr. Bowles: Would you go ahead and answer the question for the record, please, Mr. Maher?

Mr. Maher: However, he was permitted to retain his investigator's card by instructions of the President that he might be called upon to perform some service for the President of the Brotherhood.

Mr. Stallard: Well, let me ask you, who performs investigating now? Who investigates now?

Mr. Maher: Well, officially I don't know.

[fol. 511] Mr. Stallard: Well, do you have investigators now?

Mr. Maher: We have no investigators now.

Mr. Stallard: Well, who tells you that somebody has been hurt?

Mr. Maher: Oh, the secretaries of the subordinate lodges in the United States.

Mr. Stallard: Well, do the secretaries have investigators' cards?

Mr. Maher: Some of them may have.

Mr. Stallard: What about Virginia? Do you know anything about Virginia now?

Mr. Maher: I don't know of anyone in the State of Virginia that is carrying an investigator's card.

Mr. Stallard: Well, do they send the Form LA-1? Does the Secretary send that?

Mr. Maher: The secretary of the subordinate lodge, yes.

Mr. Stallard: Well, is the secretary an employee of this department?

Mr. Maher: No, the secretary of a subordinate lodge is not an employee of this department of the Brotherhood.

[fol. 512] Mr. Stallard: Do you know a man by the name of Byerton, who is General Chairman of a road down in Georgia?

Mr. Bowles: B. G. Byington.

Mr. Maher: Byington.

Mr. Stallard: Byington. Do you know him?

Mr. Maher: Yes.

Mr. Stallard: Is he an employee of this department?

Mr. Maher: He is not.

Mr. Bowles: May I interrupt there, Mr. Stallard, so we don't lose the train of this?

The work that Mr. Byington does on Grand Lodge business, he is reimbursed by the Grand Lodge for that, isn't he?

Mr. Maher: Not by direction of this department or not by this department. If he receives any pay from the Brotherhood, it's in his capacity as a General Chairman.

Mr. Stallard: Well, do you know whether he is an employee of the General Brotherhood?

Mr. Chase: Bob, what Mr. Bowles tried to ask you was if Byington was an employee of the Grand Lodge?

[fol. 513] Mr. Bowles: No, I did not. That's what Mr. Stallard asked him.

Mr. Chase: That's what Mr. Stallard wanted to know, is Byington, to your knowledge, an employee of the Grand Lodge?

Mr. Maher: To my knowledge, he is not an employee of the Grand Lodge.

Mr. Bowles: However—

Mr. Stallard: Well, when you say, "General Chairman," what is he General Chairman of, a Local Lodge?

Mr. Maher: A General Chairman is elected by the members employed on the railroad that he represents to represent them as their General Chairman. He is the Chairman of the General Grievance Committee on that particular railroad.

Mr. Bowles: Have you ever held that position, Mr. Maher?

Mr. Maher: Never as General Chairman. I have been a Local Chairman.

Mr. Stallard: Well, the General Chairman, does that cover the whole railroad? He is elected by the people that work on the railroad?

Mr. Maher: By the members of the Brotherhood employed on that railroad.

[fol. 514] Mr. Stallard: Well, is that a lodge thing or is that several lodges?

Mr. Maher: Well, that encompasses every lodge in which members—or in which employees of that railroad belong.

I don't know offhand just how many lodges—what is that, the Central of Georgia?

Mr. Stallard: Yes.

Mr. Chase: I think it has two, Bob.

Mr. Maher: Beg pardon?

Mr. Chase: I think it has two lodges. Yes, a road lodge and a yard lodge. But as a General Chairman, as such he isn't an employee of the Grand Lodge?

Mr. Maher: No.

Mr. Bowles: But he does—well, let me ask you this. Are you familiar with the functions of a General Chairman on any railroad?

Mr. Maher: Yes, sir, sojewhat.

Mr. Bowles: And they do on occasions do specific things for the Grand Lodge, do they not?

Mr. Maher: On behalf of their members.

Mr. Chase: Not unless they are deputized, Bob. He is trying to get you to say that they do things for the Grand Lodge.

[fol. 515] Mr. Bowles: Just a moment, Mr. Chase. Let him answer his own question without your prompting.

Mr. Stallard: He may not know.

Mr. Chase: I am interested in this.

Mr. Stallard: He might know, Mr. Chase.

Mr. Chase: I think I know something about this business, and Bob does, only your questions, the way they are slanted, might not be answered—

Mr. Bowles: There is no intention to slant my questions. I am merely trying to find out what the fact is.

Mr. Stallard: This witness might not know.

Mr. Chase: I said Mr. Bowles, the 3rd, is trying to get Mr. Maher to say that the General Chairman is an employee of the Grand Lodge and that isn't true.

Mr. Maher: Well, I have already answered that, that Mr. Byington or no General Chairman of the Brotherhood of Railroad Trainmen is an employee of the Grand Lodge of the Brotherhood.

Mr. Bowles: Except when he would be on Grand Lodge business?

Mr. Maher: That I don't know. I can't answer that question.

[fol. 516] Mr. Bowles: Well, can you answer the question, Mr. Chase?

Mr. Chase: Not unless he was deputized by the President.

Mr. Bowles: That's all I wanted to know.

Mr. Chase: Mr. Byington isn't deputized by the President.

Mr. Bowles: Do you have something else you wanted?

Mr. Stallard: No, I don't.

Mr. Bowles: Let me ask you this, Mr. Maher. You stated you knew Harry Dragmire?

Mr. Maher: Yes.

Mr. Bowles: I believe you said you knew him well, that you had met him?

Mr. Maher: I have met him on several occasions, yes.

Mr. Bowles: Do you know who employs him right now?

Mr. Maher: No, I don't.

Mr. Bowles: When was the last time you saw him?

Mr. Maher: Oh, that has been about two years.

[fol. 517] Mr. Bowles: Well, now, getting back to the original purpose of why we came here, these records, I believe you have stated that these file folder records of which you probably have seven years and the three books which you have presented here and the journal which you keep at home are all of the financial records that you have as to the operation of this department?

Mr. Maher: Yes, sir.

Mr. Bowles: Now, how long would it take you to get together the seven years of these file folder records?

Mr. Maher: Now, that's a hard question to answer. I don't know. We would have to probably do a little digging to find these previous years. That is, these kind of deposit slips back that far. I don't know how far back we can find them.

Mr. Bowles: Well, could you give me an estimate as to the amount of time it would take?

Mr. Maher: Oh, I'd say it might be done within the next week. I wouldn't give that as a definite answer, because of the fact that I am going to leave the office on October the

18th and I am going to be gone more than likely until the 24th.

[fol. 518] Mr. Bowles: Where are you going, Mr. Maher?

Mr. Maher: I am going back to my home in Illinois.

I might add a little bit further to that statement. I am going back for the purpose of attending the Illinois Joint State Meeting of the Brotherhood, which is being sponsored by the Lodge of the Brotherhood to which I belong and which has been named in my honor. I'd like to have that in the record.

And, furthermore, if you care to have this in the record, this is the plaque on the wall denoting that I have been accorded that honor.

Mr. Bowles: Now, how long would it take you to go to your house and get this book that you have out there?

Mr. Maher: Well, depending on the connections I could make. It usually takes about 30 to 35 minutes for me to get home on the bus and the Rapid Transit, and I have to walk a block from where I get off to my home, and it would take me about two minutes to pick up the book and get back, and depending upon the connections I could make again. It would probably more than likely consume at least two hours.

Mr. Bowles: Well, could you get that book and deliver [fol. 519] it to Mr. Chase so that he could bring it to Richmond?

Mr. Maher: By what time?

Mr. Bowles: I believe that the Court expressed its preference that we have these records there at 10:00 o'clock October the 13th, which is tomorrow.

Mr. Maher: Well, off the record, now, again.

The Notary: Is this off the record?

Mr. Maher: May I ask Mr. Chase?

Mr. Bowles: I would just as soon it all be on the record.

Mr. Maher: Oh, well, hell, if you don't want to cooperate a little bit with me—

Mr. Bowles: It's not a question—

Mr. Maher: What I wanted to ask Mr. Chase, if it is his intention to go to his home before he returns to Richmond?

Mr. Chase: I don't know, Bob. It all depends if I can get that 8:25 plane, I won't. Otherwise, I will.

Mr. Maher: Well, upon that would depend whether I could get the ledger and get it in Mr. Chase's possession.

Mr. Bowles: But you will deliver that ledger to [fol. 520] Mr. Chase to take to Richmond?

Mr. Maher: I don't know whether it can be in time to catch the plane or not. If he has to catch that plane, I don't know whether I can get it and get it into his hands by that time or not. That's why I wanted to ask you that question off the record. I can make every effort, and if Mr. Chase is obliged to miss his plane because of the fact that I can't get it into his hands—

Mr. Bowles: For the record, that is also the plane I would like to take back, too.

Mr. Maher: And understand this, I don't want to deliberately do anything that would cause any of you to miss your plane, but I can't guarantee what kind of connections I can make to get out home.

Mr. Bowles: There are other planes that we could take if the necessity arises.

Now, as far as these other records—

Mr. Maher: Now, pardon me just a minute before you ask me another question. Again, put this on the record. I can call my wife, if necessary, and ask her if she will pick up the ledger and drive it down here and bring it up in our car.

Mr. Stallard: I think that would be very well. It would [fol. 521] save us some time. We have got to go back upstairs.

Mr. Bowles: I hate to inconvenience Mrs. Maher.

Mr. Maher: I hate to, too.

Mr. Stallard: You have been sick and I imagine you better do that, Bob. Your doctor wrote and told me.

Mr. Maher: That is right. And, you know, I am trying to control myself. I am noted for having a little temper—and I am trying to control it.

Mr. Stallard: You have got an Irishman's name and I would think you have a little temper.

Mr. Maher: And I don't want to get upset here, because I know dang well it wouldn't do any good.

Mr. Bowles: If you could do that, I would appreciate it.

Mr. Maher: I want to cooperate in any way.

Mr. Bowles: I would appreciate it very much.

Mr. Maher: I will have to go next door and whether that office is open or not I don't know.

[fol. 522] Mrs. Clark: I will see.

Mr. Maher: Otherwise I will have to leave the floor to get a dial phone. I can't call through the board.

Is she there?

Mrs. Clark: No, but the door is open.

Mr. Bowles: I think we can discontinue this, Mr. Ferris.

(Discussion, off the record.)

DISCUSSION AND TESTIMONY OF MRS. VIRGINIA CLARK WITH COUNSEL

Mr. Stallard: Mrs. Clark, I hand you what has been turned over to us by you, which shows a series of letters addressed from May the 27th, 1960, running through—well, they are not in logical sequence, they run backwards to January 7, 1960, which indicates money has come into this office for investigation fees concerning the cases and you have put notations on them. For example, you have on a letter addressed to W. P. Kennedy and W. E. B. Chase, General Secretary, April 18, 1960, a copy to the cashier, with check, \$250, and you have in somebody's handwriting, "H. J. Armstrong, Number 375, investigator expense, Henslee & Henslee, Cont." Would you explain what those things mean?

Mrs. Clark: This was a check received from Brother Armstrong, a member of Lodge 375, for investigation of [fol. 523] his injury case. I have no date when he was injured or anything like that.

Mr. Bowles: Well, could you give us any estimate of when that accident happened?

Mrs. Clark: I am afraid I couldn't give an accurate estimate. We have cases in our files dating back to 1950 that haven't been settled, that are still open cases, because of crowded conditions on the court and what-not, so I couldn't give an accurate estimate.

Mr. Bowles: Assuming you had an investigator to investigate in 1961, have you received any money on an investigation for 1961 or 1960?

Mrs. Clark: Not 1960 and not 1961.

Mr. Bowles: Well, then, do I understand the investigation reports which you have, that the money covered periods prior to '60 and '61?

Mrs. Clark: Yes, sir.

Mr. Bowles: I would like to ask Mr. Maher on that after you might examine her.

I believe you said that that check came from Brother Armstrong?

Mrs. Clark: Yes, as far as this case goes.

Mr. Bowles: What does the notation "Henslee & [fol. 524] Henslee" on there mean?

Mrs. Clark: That's the legal counsel who is handling the case for Brother Armstrong.

Mr. Bowles: Let me see this document. Take this letter of April 5, 1960, to Mr. Kennedy and Mr. Chase from Mr. Maher. "Please deposit attached check in the amount of \$1000 to the General Fund of the Brotherhood," with the notation, "Yaeger & Yaeger, salaries." Where was that check received from?

Mrs. Clark: From the notation, I would take it to be received from Yaeger & Yaeger for a previous balance on salaries that they perhaps didn't pay up before they were—when they were due.

Mr. Bowles: And the date of this letter is April 5, 1960?

Mrs. Clark: Yes, sir.

Mr. Bowles: And are these letters sent in within a short period of time after the check is received?

Mrs. Clark: It depends on whether or not I happen to be in the office at that time.

Mr. Bowles: Well, say, if the check is received, within a month they would be sent in, would they not?

Mrs. Clark: Yes, I would imagine so.

[fol. 525] Mr. Bowles: And these other letters, one letter dated April 1, 1960, to Mr. Kennedy and Mr. Chase from Mr. Maher, with the notation on it, "Hildebrand, salaries," that would be the same thing, a check received from Mr. Hildebrand?

Mrs. Clark: Yes, sir.

Mr. Bowles: Perhaps some time in March of 1960?

Mrs. Clark: Yes, sir.

Mr. Chase: Those would be for investigators, wouldn't they?

Mrs. Clark: Yes, sir.

Mr. Bowles: And I believe you stated when Mr. Stallard asked you, that these could be for accounts, say, that you had cases pending for from 1950, I believe?

Mrs. Clark: Yes.

Mr. Bowles: They could also be for cases that have been investigated in 1960, could they not?

Mrs. Clark: Yes, sir.

Mr. Chase: Up to April 30th?

Mrs. Clark: Oh, yes, in the first part of 1960.

Mr. Bowles: Would you let the record show, Mr. Ferris, [fol. 526] that the answer to the question was suggested by Mr. Chase?

Mr. Chase: It wasn't suggested by Mr. Chase. Mr. Chase wanted to make sure that she gave the correct answer.

Mr. Bowles: Dictated by Mr. Chase.

Mr. Chase: It wasn't dictated.

Mr. Stallard: Are you through?

Mr. Bowles: Well, I was just looking through here just a moment.

Would you count the number of letters in here, please, ma'am?

Mrs. Clark: 24.

Mr. Bowles: 24 letters. And a sheet and a column of figures?

Mrs. Clark: Yes.

Mr. Bowles: And that is the content of your 1960 file?

Mrs. Clark: Yes, sir.

Mr. Bowles: I believe, Mr. Stallard, you stated you wanted to ask Mr. Maher some questions.

Mr. Stallard: I wanted to ask her another question.

Why haven't you received some subsequent to the last [fol. 527] date mentioned here, which I believe is May 27, 1960?

Mrs. Clark: Well, I couldn't answer that, because I don't know, sir.

Mr. Stallard: You haven't received any more since May, 1960, is that the last one?

Mrs. Clark: Yes, sir.

Mr. Stallard: This is October, 1961.

That's all.

I'd like to ask Mr. Maher—

Mr. Bowles: Well, I would like to ask one more question. Do you have a file similar to that for 1961?

Mrs. Clark: No, sir.

Mr. Bowles: The latest dated letter in there represents the latest money received by a Regional Counsel or Legal Counsel or an investigator or a Brother, I believe.

Mrs. Clark: It represents the latest check that we have received in this department.

Mr. Bowles: And your notations indicate from whom that check was received?

Mrs. Clark: Yes, sir.

Mr. Stallard: This letter of May 27, 1960, will you read the notation on it, please?

Mrs. Clark: "Rerat. For G. J. Rerat, 1 day per month, [fol. 528] organizing. Check 496."

Mr. Stallard: Well, now, what period of time would that have been for? Would you know?

Mr. Maher: Beecher, ask me that question.

Mr. Bowles: Well, in a moment, if we may.

Mr. Maher: Don't answer that. You can't answer that question.

Mrs. Clark: I can't answer it.

Mr. Stallard: You can't?

Mrs. Clark: No, sir.

Mr. Bowles: Who would that same letter indicate that that check was received from?

Mrs. Clark: George J. Rerat, to the best of my knowledge.

Mr. Bowles: And who is George J. Rerat, to the best of your knowledge?

Mrs. Clark: He was a former investigator, to the best of my knowledge.

Mr. Bowles: And Mr. George J. Rerat, then, sent money into this office for organizing?

Mrs. Clark: As far as the notation, I would take that to be what it would be for.

Mr. Bowles: These are your files. Would it not be a [fol. 529] more correct interpretation that that is money

sent in by somebody else to reimburse George J. Rerat for organization that he did?

Mrs. Clark: I couldn't answer that question.

Mr. Bowles: Well, would that be a positive interpretation of it?

Mrs. Clark: I couldn't answer that. That's your interpretation, not mine.

Mr. Bowles: But you have stated what you interpret?

Mrs. Clark: I don't know what this check was sent in for.

Mr. Bowles: Well, then, your statement in response to Mr. Stallard's question was likewise a sort of a shot in the dark as to what it might be?

Mrs. Clark: Yes.

DISCUSSION AND TESTIMONY OF CHARLES R. MAHER WITH COUNSEL

Mr. Stallard: No, Mr. Maher, you have heard the questions I asked Mrs. Clark. Can you make any explanation of this letter of May 27, 1960, which has some notation on it which you might not be able to read?

Mr. Maher: This is the letter just referred to to Mrs. Clark?

Mr. Stallard: Yes.

[fol. 530] Mr. Maher: That's why I asked you, Mr. Bowles, to ask me that question. I can explain it to you.

Mr. Bowles: Fine.

Mr. Maher: This letter should not be in this file, because it does not pertain to anything in connection with this department.

Mr. Bowles: Well, I take it, then, organizational work, you mean, going out into a craft and getting more members for your Brotherhood would be a perfectly natural function for any organization?

Mr. Maher: That is right.

Mr. Bowles: In fact, your existence would be dependent on that?

Mr. Maher: To further answer that question, George J. Rerat, a former investigator for the Brotherhood, has an employment connection with a railroad, and it is his desire

to keep in an employment connection with a railroad in order to keep himself in good standing with the Railroad Retirement Board. So therefore he asked the President of the Brotherhood if it would be possible for him to be placed upon the Brotherhood payroll as an organizer at one day per month, paid at the organizer's rate of pay, and that [fol. 531] he, in order to keep himself in good standing with the Railroad Retirement Board, would reimburse the Brotherhood for the amount that would be intended in keeping him on as an organizer.

Mr. Bowles: Now, as I understand that, then, that Mr. Rerat sent in that check so that it could go through this office and the deductions made for Railroad Retirement and Railroad Unemployment Compensation, and then the balance, what was done with the balance? Was that sent back to him?

Mr. Maher: What balance are you speaking of?

Mr. Bowles: Well, if that was sent in so that he could have his Railroad Retirement and his Railroad Unemployment and whatever else you all have, what happened to that money? Let me ask you that.

Mr. Maher: Well, it is sent out to him in a Brotherhood check, the same kind of a check that any Brotherhood employee receives, the President of the Brotherhood, the General Secretary and Treasurer, myself, my staff, any employee of the Brotherhood of Railroad Trainmen.

Mr. Bowles: I am not a railroader myself, and I don't necessarily understand these things, but, if I understand [fol. 532] you, he sent in \$251.76, and you or Mrs. Clark took that check?

Mr. Maher: Well, let me answer that by stating the reason it was sent to me was that George Rerat knew that it would get into the proper hands. In other words—

Mr. Bowles: Then you sent this check on up to Mr. Chase's department?

Mr. Maher: I did.

Mr. Bowles: And his department, say, deducted—these are imaginary amounts in my mind—say, \$10 for Railroad Retirement—

Mr. Maher: It's no imaginary amount, it's a real amount.

Mr. Bowles: Well, I don't know what the amounts are.

Mr. Maher: The amount is stated there, \$251 and some odd cents, which is to cover the check that is sent out to him every month, one day per month, at the organizer's rate; which is \$29 and something.

Mr. Bowles: But the check that is sent to him then by Mr. Chase's department is in a smaller amount than this check?

Mr. Maher: Yes.

[fol. 533] Mr. Bowles: That's what I thought.

Mr. Chase: Does it have anything to do with the Legal Aid Department?

Mr. Maher: None whatsoever.

Mr. Bowles: He already stated that this letter was improperly in this file.

Mr. Maher: That is right. That letter should have been directly addressed to President Whitney.

Mr. Bowles: For organizational work?

Mr. Maher: Yes.

Mr. Bowles: All right. I understand you now.

Mrs. Clark, one other question. All these notations on here are in your handwriting?

Mrs. Clark: Yes, sir.

Mr. Bowles: And how long have you been employed in the present position that you now have?

Mrs. Clark: Since June of '59.

Mr. Bowles: And who was your predecessor?

Mr. Maher: Rosemary.

Mrs. Clark: Rosemary Portic it is now. R-o-s-e-m-a-r-y. P-o-r-t-i-c. That's Mrs. Rosemary Portic.

[fol. 534] Mr. Bowles: Let me ask Mr. Maher one question now.

I believe in the Hildebrand case your deposition was taken in that case?

Mr. Maher: Yes, sir.

Mr. Bowles: And I believe, if I am not mistaken, that you went through all of the secretaries that you had had since you have been here and I believe you took it up to this Rosemary Portic, if my memory serves me correctly?

Mr. Maher: Well, I think Virginia was included. When she first took over—no, you were married when you took over this.

Mrs. Clark: Just barely.

Mr. Maher: When she came into the department she came in as Miss Virginia Brazeal.

The Notary: 'Spell that, please.

Mrs. Clark: B-r-a-z-e-a-l.

Mr. Bowles: I have no other questions.

Mr. Stallard: I don't either. Let's get going upstairs.

(Discussion, off the record.)

Mr. Bowles: Would you state the amount of time which you think it will require to produce the records which I have asked you to produce and when you think you [fol. 535] could get them up?

Mr. Maher: Well, Mrs. Clark and myself will make every effort to obtain all similar notices as are described in this folder—

Mr. Bowles: 1960 deposit slips folder?

Mr. Maher: Yes, dating back as far as we can find them, and we will have them in the mail addressed to the—

Mr. Bowles: Clerk of the Chancery Court of the City of Richmond.

Mr. Maher: —Clerk of the Chancery Court at the absolute latest in the evening mail of October 17th. We will try to get them on the 16th if we can.

Mr. Bowles: That's all that I can think of.

[fol. 536] Offices of: Brotherhood of Railroad Trainmen, 1428 Standard Building, Cleveland, Ohio, Thursday, October 12, 1961, at 6:20 p.m.

DISCUSSION AND TESTIMONY OF J. W. ORPIN WITH COUNSEL

Mr. Bowles: For the benefit of the record, just state, I believe, that you have the payroll records of all Regional Investigators and all personnel of the Legal Aid Department, now the Department of Legal Counsel, from 1954 to the present day.

Mr. Orpin: Through, to be exact, September 29th. Call it September 30th. That was the end of the month.

Mr. Bowles: 1961?

Mr. Orpin: 1961.

Mr. Bowles: And that you are not certain whether or not all of the previous payroll records are on microfilm or not, but that you believe that some of them are?

Mr. Orpin: That is right, I will make that statement, but, if you have got to know, I would rather make a check on it.

Mr. Bowles: No, I don't blame you.

Mr. Orpin: Because some things we do microfilm and some things we don't.

Mr. Bowles: And I believe you stated that you wanted to check as to what you did microfilm and what you did [fol. 537] not—

Mr. Orpin: That is correct.

Mr. Bowles: —before you made any positive statement as to what you had?

Mr. Orpin: That is correct.

Now, off the record.

The Notary: Is this off the record?

Mr. Bowles: Yes.

(Discussion, off the record.)

Mr. Stallard: Mr. Orpin, I ask you, what was the contribution coming into the General Fund from the Department of Legal Aid for the year 1959?

Mr. Orpin: The total refunds were \$158,080.06 for investigators and office expense.

Mr. Stallard: Now, what was the amount for the year 1960?

Mr. Orpin: \$23,410.31.

Mr. Stallard: What was the sum for the year 1961?

Mr. Orpin: '61, up to this date, nothing.

Mr. Stallard: Well, now, take that \$23,000, you have got it under the year of 1960. Would you know when that was received as far as the Department of Legal Counsel is concerned? Would you know for what period of time [fol. 538] that would be for?

Mr. Bowles: I believe the witness has already testified that he only gets the figures up here.

Mr. Stallard: Well, you don't know?

Mr. Orpin: You are correct, I wouldn't know what period.

Mr. Stallard: That's a good answer. I don't know whether I understand it or not.

(Discussion, off the record.)

Mr. Stallard: Let me ask you, then, Mr. Orpin, you say your receipts for the year 1960 were \$23,000—

Mr. Orpin: \$410.31.

Mr. Stallard: \$23,410.31. What were your disbursements?

Mr. Orpin: Investigators were paid \$18,169.07, and Railroad Retirement and Unemployment Taxes were paid based on their salaries, \$2190.35, or a total of \$20,359.42.

Mr. Stallard: Well, does that record show the deficit for 1961?

Mr. Orpin: For 1961?

Mr. Stallard: Yes.

Mr. Orpin: There is a deficit at the end of '60.

[fol. 539] Mr. Stallard: What was the deficit in '60?

Mr. Orpin: The deficit in '60 was \$55,701.21.

Mr. Stallard: What was it for '61?

Mr. Orpin: \$85,445.96.

Mr. Bowles: Do you have what it was for 1959?

Mr. Orpin: It was a surplus of \$11,185.76.

Mr. Stallard: Receipts for that year were how much?

Mr. Orpin: For 1959?

Mr. Stallard: Yes.

Mr. Orpin: \$158,080.06.

Mr. Stallard: That's all.

Mr. Bowles: I don't see any point in continuing the interrogation of this gentleman any further.

Mr. Stallard: No, I don't either.

(Discussion, off the record.)

Mr. Bowles: I just wanted to state that since we are all anxious to catch an 8:15 plane—is that it?

Mr. Chase: 8:25, I believe.

[fol. 540] Mr. Bowles: —8:25 plane, it is my understanding that you will bring with you whatever records that Mr. Orpin has compiled up to the last moment of your departure.

And if there are other records, Mr. Orpin, would you mail them to the Clerk of the Chancery Court of the City of Richmond? And I would suggest registered mail, return receipt requested, to protect your own records.

Mr. Orpin: Must that be done—

Mr. Chase: Are there any other records, John?

Mr. Orpin: Well, as I explained before, the only records are—and they would be letters from our Tax Department telling us how much we owe in Railroad Retirement and Unemployment Taxes, based on these salaries.

Mr. Bowles: I don't want that.

Mr. Orpin: You don't want that?

Mr. Bowles: No.

Mr. Chase: Then that's all the records there are?

Mr. Bowles: I am not interested in the Railroad Retirement Act.

Mr. Orpin: Well, that's the same as Social Security.

[fol. 541] DISCUSSION AND TESTIMONY OF CHARLES
R. MAHER WITH COUNSEL

Mr. Stallard: I want to ask Mr. Maher one more question on something involving him. Sit down just a minute.

Mr. Maher: O.K.

Mr. Stallard: There has been introduced here in Cleveland June 1, 1961, a purported letter from President Whitney to all counsel saying thereafter no contribution was going to be made to the Legal Aid Department. Now, I understand you came with the Legal Aid Department in '47?

Mr. Maher: Yes.

Mr. Stallard: What was the arrangement in '47 of the contributions of Legal Counsel to the Legal Aid Department?

Mr. Maher: Well, in '47, answering from the time I came in here, June 1 of '47, the contributions were the same as they were in 1958.

Mr. Stallard: Well, that was on a percentage basis?

Mr. Maher: Yes.

Mr. Stallard: Well, now, the letter which was sent out, what was the contribution in '46 when the letter was sent out?

Mr. Maher: Well—

[fol. 542] Mr. Bowles: He was not here in '46.

Mr. Stallard: He wasn't here, but he had some knowledge of it.

Mr. Bowles: I don't think this man can testify as to what was the system of the operation of the Legal Aid Department in '46 when he was not employed by that department.

Mr. Stallard: Well, he might have seen some of the books and have full knowledge from the books.

Mr. Maher: Well, then, let me say that I can't answer as to the contents of the letter or the meaning thereof, and inasmuch as Mr. Bowles stated that I could not answer the question, I will not attempt to answer it.

Mr. Stallard: Well, let me then ask you if you do know the arrangement in '46, and not make any reference to the letter, between Regional Counsel then, who are now Legal Counsel? What was the arrangement as far as contributions were concerned?

Mr. Maher: Well, my knowledge of it was that an arrangement was made between the Brotherhood and the Legal Counsel, which were then known as Regional Counsel, that they contribute a certain percentage of the fee that they charged the client and contribute it to the Brother-
[fol. 543] hood.

Mr. Stallard: In other words, it was a direct contribution on the percentage of the fee?

Mr. Maher: Yes, sir.

Mr. Stallard: The record shows that at one time the department required five percent. The lawyer got 20 percent and the department got five.

Mr. Maher: As near as I can remember the figures, I think that was the arrangement.

Mr. Stallard: But you don't know anything about the letter, then?

Mr. Maher: I can't recall the letter.

Mr. Stallard:—I don't think you would, because it was written in '46.

Mr. Bowles: Where were you in 1946, say, June the 15th, 1946? Just a rough—

Mr. Maher: Where I was?

Mr. Bowles: Yes.

Mr. Maher: God!

Mr. Bowles: That's the year before you came with—

Mr. Stallard: You mean what was he doing?

Mr. Bowles: What were you doing? I don't mean the exact place.

[fol. 544] Mr. Maher: Well, I was most likely a Brotherhood investigator out in the field.

Mr. Bowles: But you did not come into the office of the Legal Aid Department as an employee of that office or as its Chief Clerk until some time in 1947?

Mr. Maher: No, that is right.

Mr. Bowles: And you of your own knowledge have no information as to what letters President Whitney might have written in '46, or any other year really, do you, other than those letters which might have been directed directly to you personally?

Mr. Maher: Well, generally speaking, I have no knowledge of letters—

Mr. Bowles: All right.

Mr. Maher:—prior to my coming into the Grand Lodge.

Mr. Bowles: Right.

[fol. 545] NOTARY'S CERTIFICATE (omitted in printing).

[fol. 546]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 1
EXCERPT FROM CONSTITUTION

BROTHERHOOD OF RAILROAD TRAINMEN
Organized at Oneonta, N. Y., September 23, 1883

Brotherhood of Railroad Trainmen
Insurance Department

Amended at the Thirtieth Convention
Held at Miami Beach, Florida,
August 30th to October 8th, 1954, Inclusive.

IN EFFECT ON AND AFTER JANUARY 1, 1955

Amendments Appear in Italics

Rulings of the President, or citations thereto, appear
following the Sections or Rules to which they apply.

Printed in the United States on Union Made Paper

[Union Label]

[fol. 547] Legal Aid Department.

Under date of August 15, 1930, Special Circular No. W-32 was addressed to the secretaries of all lodges of the Brotherhood in the United States, requesting that each lodge designate at least one member whose duty it would be to submit to the Legal Aid Department preliminary reports on all cases of accidental injury or death to our members on railroad. At the same time blanks were forwarded to all lodges for use in making such reports, and

it was suggested that probably it would be advisable to select local chairmen for this purpose, but that where the president, secretary and treasurer, or some lay member of the lodge, was in better position to handle the reports, one of such officers or members should be selected.

Many of our lodges and members have cooperated splendidly in getting these reports to the Legal Aid Department, but in some instances the department has not been able to render any service to injured members, or to dependents of members killed in railroad service, because of failure to receive the necessary reports. The department cannot, of course, be of the assistance intended, unless it has the cooperation of all concerned.

Therefore, in accordance with Section 91 of the Constitution, which provides that the secretary shall conduct the correspondence of subordinate lodges, the secretaries of all lodges in the United States will accept this as official notice that it shall be their duty to report to the Legal Aid Department each case where a member of their respective lodges is accidentally injured or killed while engaged in railroad service.

[fol. 548] While a statement of some of the important facts in each case is desirable, a report of the name and address of the member concerned, the names and addresses of his dependents if the member was killed, the name of the railroad, the time and place of the accident, and whether injury or death occurred, is sufficient if promptly forwarded to the department. Promptness in making these reports is very essential and, therefore, they should not be delayed awaiting the development of facts other than as above stated.

As indicated, a supply of blank forms for use in submitting these reports has previously been forwarded to all lodges in the United States. If an additional supply of such forms is required by the secretary of any lodge, they will be furnished upon request.

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[fol. 549]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 1-B

EXCERPT FROM CONSTITUTION

BROTHERHOOD OF RAILROAD TRAINMEN
Organized at Oneonta, N. Y., September 23, 1883

Brotherhood of Railroad Trainmen
Insurance Department

Amended at the Thirty-First Convention
Held at Cleveland, Ohio,
January 4th to February 18th, 1960, Inclusive

IN EFFECT ON AND AFTER MAY 1, 1960

Amendments Appear in Italics

Rulings of the President, or citations thereto, appear following the Sections or Rules to which they apply.

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[fol. 550] Duties of Secretary.

Sec. 91. It shall be the duty of the secretary to keep a true and correct record of all the proceedings of the lodge, receive all communications, conduct the correspondence, and have charge of the seal and records of the lodge. He shall notify all officers of their election or appointment. *Subsequent to the action of any subordinate lodge which might affect, concern or be of interest to another lodge, such lodge must be notified by the secretary of the lodge taking such action.* He shall, upon the acceptance of charges by the lodge, against a member of the lodge of which he is secretary, at once mail a copy of such charges and a copy of the notice thereof to the accused member duly signed by himself as secretary, to the President of the Brotherhood. He shall mail to the President of the Brotherhood, signed by himself as secretary, a true and complete copy of the minutes of the proceedings of the lodge, receiving the charges, and of the appointment of the committee to hear such charges, and of the report of such committee, and of the action of the lodge on the report of such committee. He shall notify the General Secretary and Treasurer of all changes in the elective offices of the lodge, and time and place of meeting. He shall prepare, sign and seal all papers and cards requiring his official signature as further provided in this Constitution. The secretary of the lodge shall act as secretary of the board of finance, except where the offices of secretary and treasurer have been combined, when the president of the lodge will appoint a member to act as secretary of the board of finance. *It shall be the duty of the secretary to see that all notices required with respect to the election of officers and levying of assessments are handled in accordance with the Constitution.*

[fol. 551] *The secretary in conjunction with the president shall file all informational reports required of them by Section 301 (a) of the Labor-Management Reporting and Disclosure Act of 1959. (Not applicable in Canada.)*

Ruling on Section 91.

It is noted that secretaries of lodges do not always affix the seal of the lodge to papers and communications re-

flecting lodge action. A secretary will, of course, send out many letters upon which the seal of the lodge is not authorized or necessary, but the rule should be rigidly followed in cases of official communications to the Brotherhood and to subordinate lodges, assessment lists or other papers requiring certification.

The secretary is custodian of the seal and should keep it in his possession. He is required, however, to see to it that it is available for use at lodge meetings that he may not be able to attend. The secretary pro tem, has no right to use the seal of the lodge further than to impress it upon papers and documents authorized by the lodge at the meeting at which he acted as secretary.

Some secretaries and treasurers fail to have correspondence which they receive, and which refers to business of the lodge, read at a meeting of the lodge. In other cases, important mail addressed to officers of a lodge for the lodge is held by the officer and not read to the lodge for several weeks after its receipt, and in many instances no attention is paid to answering communications addressed to lodges. It should be understood that all correspondence addressed to an officer of a lodge relative to Brotherhood affairs is the property of the lodge, and not personal business, and should either be taken or sent to the lodge at the first meeting after its receipt for the information of all members concerned.

Upon the death of a member, the secretary of the lodge should immediately submit report to the General Secretary and Treasurer, giving the name of the member and the date of death, regardless of whether he was an insurance or non-insurance member.

It is necessary for the secretary of the board of finance to sign in all instances semi-annual statements and semi-annual reports forwarded to the President of the Brotherhood; and in lodges where a joint secretary-treasurer is maintained it becomes the duty of the appointed secretary of the board of finance to join with the treasurer in certifying to the correctness of such reports by attaching his signature thereto. Strict adherence to this requirement must be observed by the officers concerned, thereby avoiding the necessity of the President returning semi-annual statements and reports because of lack of proper signatures.

Department of Legal Counsel.

Under date of August 15, 1930, Special Circular No. W-32 was addressed to the secretaries of all lodges of the Brotherhood in the United States, requesting that each lodge designate at least one member whose duty it would be to submit to the Department of Legal Counsel preliminary reports on all cases of accidental injury or death to our members on railroads. At the same time blanks were forwarded to all lodges for use in making such reports, and it was suggested that probably it would be advisable to [fol. 552] select local chairmen for this purpose, but that where the president, secretary and treasurer, or some lay member of the lodge, was in better position to handle the reports, one of such officers or members should be selected.

Many of our lodges and members have cooperated splendidly in getting these reports to the Department of Legal Counsel, but in some instances the department has not been able to render any service to injured members, or to dependents of members killed in railroad service, because of failure to receive the necessary reports. The department cannot, of course, be of the assistance intended, unless it has the cooperation of all concerned.

Therefore, in accordance with Section 91 of the Constitution, which provides that the secretary shall conduct the correspondence of subordinate lodges, the secretaries of all lodges in the United States will accept this as official notice that it shall be their duty to report to the Department of Legal Counsel each case where a member of their respective lodges is accidentally injured or killed while engaged in railroad service.

While a statement of some of the important facts in each case is desirable, a report of the name and address of the member concerned, the names and addresses of his dependents if the member was killed, the name of the railroad, the time and place of the accident, and whether injury or death occurred, is sufficient if promptly forwarded to the department. Promptness in making these reports is very essential and, therefore, they should not be delayed awaiting the development of facts other than as above stated.

As indicated, a supply of blank forms for use in submitting these reports has previously been forwarded to all lodges in the United States. If an additional supply of such forms is required by the secretary of any lodge, they will be furnished upon request.

[fol. 553] Consideration of Grievances.

No. 5. Any member considering that he has been unjustly dealt with by his employer, or that he is otherwise aggrieved or is denied compensation for time lost and expenses incurred by sustaining minor personal injuries in line of service, shall make a comprehensive statement of the grievance in writing containing all of the material facts necessary for a clear understanding of the grievance and present or mail the same to the secretary of his lodge for handling at the next regular meeting. The lodge shall then determine by a majority vote of the members present, employees of the division, whether to sustain or reject the grievance. Should the grievance be sustained, the lodge will then authorize either the local chairman or the local [fol. 554] grievance committee to lay the matter before the trainmaster, superintendent, or other proper officer, and use every means to effect a satisfactory settlement, and report his or their action and all things pertaining to the case to the lodge. If the result is not satisfactory, it may be referred to the general grievance committee for further action. A member or a lodge may withdraw a grievance placed in the hands of a general grievance committee, provided such action is taken before said grievance has been presented by the general grievance committee to the officer of the company, but not thereafter.

All grievances must be handled by the regular local grievance committee, or by the local chairman if the lodge so directs, before being referred to the general grievance committee for adjustment. Grievances pertaining solely to members employed on a particular road or division or bus line shall be disposed of by a majority vote of the members of the lodge who are employed on such road or division or bus line; provided, that at least five such members must be present to take action upon such grievance. On

small systems where the office of general chairman is maintained, upon the request of all lodges on such systems, the President of the Brotherhood may issue dispensation permitting the general chairman to handle local grievances. Nothing in this rule shall be construed to prohibit a local lodge from submitting direct to state or national legislative boards matters involving violation of state or federal laws. Ruling on General Rule 5.

In presenting to a lodge a statement of his grievance, as a basis for lodge action a member should give all facts pertaining thereto, in order that the lodge may intelligently decide whether or not the grievance is of such merit that it should be taken up. A mere request from a member to have his grievance taken up, without giving any grounds which might justify the lodge in doing so, is not sufficient.

The jurisdiction of local grievance committees ends with division superintendents, or officer holding similar position; the interpretation being that a local grievance committee cannot present grievances to a general officer of the company; they should be presented by the general grievance committee.

[fol. 555] Local grievance committees are not authorized to make agreements with the company that conflict with the terms of the system agreement, or to handle any matter that is under the jurisdiction of a general grievance committee.

All grievances must be handled by the regular local grievance committee before being referred to the general grievance committee for adjustment. Special committees cannot be appointed by the lodge for the purpose of presenting grievances because it may be thought the members of the regular committee do not favor the matter in hand.

It has come to our notice that certain lodges are permitting members to present grievances by petition, and otherwise, direct to railway officials without having been formally approved by the lodge. The practice must be discontinued. It is the duty of the lodge to see to it that no grievance is presented until considered by the lodge and then only through the regularly elected local and general grievance committees for the system.

Where road conductors, road trainmen other than conductors, and yardmen employed on a particular railroad or division are all represented by one local grievance committee, it is ruled that in the disposition of a grievance matter affecting one and not another class, the members (quorum of five or more) employed under the jurisdiction of the local grievance committee in the particular class affected are authorized to vote and determine the disposition of the grievance, independently of the members employed in the other class or classes of service not affected. The members in the unaffected class or classes shall be permitted to speak but not to vote on the disposition of the matter.

A member working on a system under the jurisdiction of a lodge other than that in which he holds membership, has the right within a period of ninety days from the date of his employment to present a grievance to the lodge under whose jurisdiction he is at work. If he has been employed on the system under the jurisdiction of such lodge more than ninety days, and has not transferred his membership thereto, the lodge should not consider the grievance.

In order to conduct our affairs in full compliance with the law, it must be distinctly understood that representatives of this Brotherhood, including local and general committees, must refrain from handling or attempting to handle major personal injury cases or death claims for our members or their dependents, and local and general committeemen will also refrain from handling claims for minor personal injuries unless authorized to do so by a bonafide grievance in accordance with General Rule No. 5.

When major personal injury or death cases are called to the attention of local or general chairmen, it becomes their duty to carry out the policy of the Brotherhood by informing the parties of the Brotherhood's facilities for investigating cases of this character, so that they can avail themselves of these facilities of the Department of Legal Counsel, if they choose to do so.

All local and general chairmen shall in every instance report to the President of the Grand Lodge cases in which they have assisted members in making settlements with railroad companies for time lost in connection with minor accidental injuries that are handled in accordance with

General Rule No. 5 of the Constitution. The amount and terms of the settlement, as well as detailed report of the cause of the injury and nature and extent of the disability, shall be included in such reports.

(See ruling on Section 101.)

[fol. 556]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 2

EXCERPTS FROM REPORT TO A. F. WHITNEY
PRESIDENT, BROTHERHOOD OF RAILROAD TRAINMEN

WITH RECOMMENDATIONS FOR PROTECTION OF INJURED MEMBERS
AND DEPENDENTS OF THOSE KILLED IN RAILROAD SERVICE.

By TOM J. McGRATH
General Counsel,

Brotherhood of Railroad Trainmen.

[fol. 557] Mr. A. F. Whitney, President,
Brotherhood of Railroad Trainmen,
Cleveland, Ohio.

Re—Report and Recommendations for
Protection of Injured Members
and Dependents of Those Killed
in Railroad Service.

Dear Sir and Brother:

During the course of the last several months we have, from time to time, discussed the apparent trend of legislation in the direction of abolishing the practice of so-called ambulance chasing, with the thought in mind of ascertaining the probable effect of passage of such legislation on our members who may be injured in the course of their employment and the dependents of those who may be killed.

The question naturally arises why should we, as an Organization, be interested in whether ambulance chasers are permitted to continue their operations, or whether they be legislated out of business. The occupation in which our members are engaged is an extra hazardous one. During the course of a year hundreds of our members are killed and injured on the railroads of the U. S. In order to provide a fair and reasonable measure of compensation for the injured railroad men and the dependents of those who are killed the Federal Employer's Liability Law was enacted. The passage of this legislation was brought about by the united efforts of the railroad Brotherhoods against severe and determined opposition on the part of the railroad company employers. If the railroad men of the country are to reap any considerable measure of benefit from this law it is necessary that they be familiarized with their rights under it. As presently constituted, the only medium through which the injured railroad man or the dependents of those who are killed may be advised of their rights is through the so-called ambulance chaser. The railroad companies maintain corps of highly trained, able and very often unscrupulous claim agents, whose prime and only function is to settle personal injury and wrongful death claims at a minimum of cost to the railroad companies. The ambulance chasers have afforded, to a very large extent, a valuable measure of protection to these injured men and the dependents of those killed.

CAN THE BROTHERHOOD CONSISTENTLY INSIST ON THE RETENTION OF AMBULANCE CHASERS AS A CLASS?

If the so-called ambulance chasing was engaged in only by high class personal injury lawyers specializing in railroad cases, the demand for the legislation above referred to would probably not be so urgent, and the possibility of defeating such legislation would be more promising. Unfortunately, however, a class of lawyers have invaded the ambulance chasing field and have engaged in practices

that no one can, in my opinion, successfully justify. The increased use of the automobile and the resulting traffic hazard have multiplied a thousand fold the minor and major injuries. The right to recover damages for injuries is based upon the supposed negligence of the party causing the injury. A practice has grown up among a certain class of lawyers to solicit these damage claims whether the element of negligence is involved or not.

[fol. 558] Automobile owners and insurance companies have been beset with an avalanche of claims continuously pouring in where such claims are apparently not justified. This has led to a good deal of opposition to ambulance chasers. The handling of railroad claims has been a rather profitable line of employment. This has attracted a great many mediocre lawyers into that field. The reputable, scrupulous personal injury lawyer has, in most instances, solicited the railroad man's case with the thought in mind of being of helpful assistance to the injured man, in securing just and adequate compensation for his injury. On the other hand, the unscrupulous ambulance chaser has, by the use of high pressure salesmanship methods, inveigled many injured railroad men into the signing of contracts for employment with the sole thought in mind of making as much for himself out of each case as is possible, and with no thought to the detrimental result which his conduct may have on the injured man. As a result of the recognition of the principle of seniority on the railroads, valuable rights have been secured by most of our members.

Notwithstanding these rights men are often induced to permit lawyers to sue the railroad companies in cases where their injuries are such that they might better be cured and return to work thereby preserving their seniority. It is also a matter of common knowledge that a railroad man having once employed a lawyer to sue a railroad company forfeits any claim for reinstatement to the position previously held by him and is virtually black listed from employment on any other railroad. It will be seen from the foregoing that the Brotherhood is interested in the ambulance chasing business from two standpoints. First—the protection accorded our men by the comparatively high class ethical personal injury specialists, and second

from the injury done to our men by the unscrupulous ambulance chaser whose only thought is to make a fee without regard to the consequential injury that may be inflicted on a member whose injury does not permanently incapacitate him from railroad work. There is some question as to whether the benefits are offset by the evils of ambulance chasing or not. I think that until recently at least the merits of this system more than outweighed the demerits. With the invasion of unscrupulous ambulance chasers into the railroad field the benefits accruing to railroad men as a class are found to be lessened. At any rate it is a subject that requires most serious consideration on the part of the officers of the Brotherhood.

[fol. 559] POSSIBLE OBJECTIONS TO BE MET AND
OBSTACLES TO BE OVERCOME

If a LEGAL AID BUREAU is established along the lines indicated herein the question will naturally arise as to what character of claimants shall receive consideration by the bureau. Of the hundreds of injuries sustained yearly many are trivial and inconsequential in character. It would seem that the LEGAL AID BUREAU should not be flooded with inquiries relative to minor accidents. In all cases where the injury is such that the employe is likely to be able to return to work within 60 or even 90 days it would [fol. 560] seem there should be no occasion for calling upon the LEGAL AID BUREAU for assistance. This rule, however, would be subject to the modification that where an injured man lost one or more fingers or toes which would permit him to recover and return to work within 90 days that advice might well be given as to the settlements warranted in such cases.

There will, no doubt, from time to time be members who will prefer to take their cases to lawyers other than those selected by the Brotherhood and with whom contracts have been made. It seems to me that our members should be free to employ other counsel but unquestionably the tendency will be to rely upon the Brotherhood and to support the LEGAL AID BUREAU if worth while service is being

rendered to the men. Another matter of serious import involves the maintenance and sustenance of the injured men and their families during the periods of disability prior to the settlement of their cases. How serious this question may be remains to be seen. In the cases of total and permanent disability, their Brotherhood insurance will take care of them. In needful cases it may be that the necessary support can be given from the fund created for the maintenance of the LEGAL AID BUREAU, all moneys, of course, to be advanced in the nature of a loan to be deducted from the final recovery. Even though no assistance is given along the above lines nevertheless the benefits which will accrue to the injured members as a whole will much more than offset the hardships in the few isolated cases where the members are not able to maintain themselves during the incapacity. Local lodges may also be expected in such cases to render aid. For a time at least the Brotherhood may be subjected to some annoyance by the filing of claims for insurance, which claims would not otherwise be made except for the fact that the Legal Department had taken the position of insisting on a settlement with the employe on the theory that he had been permanently injured. This situation would arise only in benevolent claims and of course it should be distinctly understood that functions of the LEGAL AID BUREAU are entirely separate and distinct from those of the Beneficiary Board and that the attitude of the Legal Department should not be taken into consideration and would have no influence on the action of the Beneficiary Board. Under the law of the Brotherhood, as sustained by the courts of the country, the Beneficiary Board and the Board of Insurance are the sole judges and courts of last resort in passing on claims arising under Section 70 of the Constitution, and in the course of time members will become educated to understand that the mere fact that the LEGAL AID BUREAU had extended every effort to procure a substantial recovery could not be considered in passing upon claims for insurance.

THE PLAN

A LEGAL AID BUREAU should be established at the headquarters of the Brotherhood for the purpose of ad-

vising injured members, and the dependents of those who were killed, of their rights. Competent and experienced personal injury damage claim lawyers should be selected throughout the country to handle the claims that cannot be satisfactorily adjusted directly between the claimants and the railroad companies. The selection of these attorneys should be determined by taking into consideration several factors including density of membership, character of railroads including miles of track and area served, the attitude of courts and juries in the different states and accessibility of the lawyers from different parts of the territory for which they are selected. Contracts should be entered into with these lawyers designating them as the officially selected attorneys for the Brotherhood to handle cases in specified territories. These contracts should call for the handling of cases on a contingent fee basis, compensation to be adjusted on the basis of 15% of the net amount recovered in suits where trials are necessary and 10% in cases which are settled before trial.

Expense incurred in the preparation and trial of cases should be borne by attorneys where no recovery is made.

Further investigation or experience may develop that the better course to pursue is to arrange with several lawyers in a given territory instead of one. This would give the claimant a choice as between several high class lawyers but under this arrangement the scale of fees would naturally be higher. This is a matter of detail, however, that does not go to the merits of the plan as a whole.

Contracts should also call for supervision by the LEGAL AID BUREAU and a division of the fees paid the lawyer in all Brotherhood cases whether referred by the Legal Department or taken direct to the lawyers by members of the Organization. The Brotherhood should receive 2% of the net amount of all recoveries to be used for the maintenance of the LEGAL AID BUREAU. The local attorney should be required to report to the BUREAU sufficient detailed information with reference to each case handled so that statistical information can be gathered bearing on the amount procured in settlements and verdicts, the attitude of the different railroads, court costs and other expenses. All bills for expenses should be approved by the

Legal Department before deducted from the amounts recovered in settlement or verdict. This information could be used to determine whether certain lawyers were making settlements or procuring verdicts up to the average standard established for the country. It would also indicate the wisdom of changing from time to time the places where cases were to be tried. In this connection it should be borne in mind that under the Federal law a railroad can [fol. 561] be sued in any state in which it does business. The local lawyer should be required to gather such additional evidence as may be necessary to supplement that furnished by the BUREAU. The BUREAU should aid and assist the local lawyers as much as possible by advising of new decisions and settlements rendered or being made from time to time. Contracts with lawyers should be terminable at will by either party.—Advice should be given to the chairman of general grievance committees in cases where they are called upon and undertake to render assistance to the injured members or the dependents of those killed. Competent investigators should be employed to investigate cases where the intricacies involved necessitated first hand information which cannot be satisfactorily secured through correspondence.

Arrangements should be made with competent physicians and surgeons for the purpose of making examinations of claimants. It is frequently necessary in order to determine what would be a reasonable amount for settlement that accurate knowledge of the extent of the injury be obtained; such doctors should also be chosen with a view to using them as witnesses in cases which are eventually brought to trial. The expense incident to such examinations should be advanced out of the LEGAL AID BUREAU FUND, but treated as a lien against the ultimate recovery. This should also be true of expenditures made for investigation. The Brotherhood could probably insure reimbursement for such expenditures by procuring an order on the railroad company authorizing it to pay the amount involved, direct to the Organization. In cases where no recovery was had, the loss should be borne by the LEGAL AID BUREAU FUND.

MAINTENANCE OF LEGAL AID BUREAU

As shown previously in this report there were in 1928, 282 deaths in the Brotherhood resulting from railroad accidents and there were 228 cases of total and permanent disability for which insurance was paid. For these injuries and deaths an amount approximating \$4,758,000 was, or at least should have been, paid. We estimate that 80% of these cases would be liability cases and that at least 50% of the total number of cases would be successfully adjudicated by the attorneys for the Brotherhood, either by suit or settlement and that 2% of the total amount recovered in these cases would approximate \$47,580. This sum should be amply sufficient to maintain an adequately equipped and efficient LEGAL AID BUREAU.

EXPERIMENTATION

The foregoing is a tentative plan for adoption in the event that it is deemed wise to establish machinery to function throughout the entire United States. The plan is no doubt subject to a great deal of improvement, and constructive criticism with respect thereto is invited. The best plan that may be devised on paper will, no doubt, still be found subject to improvement after it is tried out in practice and for that reason I would suggest that the plan at first be limited to a comparatively small area for the purpose of ascertaining its value to members of the Brotherhood and at the same time to discover its weak points and remedy them before attempting to apply the plan to the country at large. I believe that at the outset our attention along the lines indicated above should be confined to the States of West Virginia and Ohio. West Virginia should be included for the reason that there appears to be a great need for such service in that State at the present time due to a very large extent, if not solely, to the passage of the so-called ambulance chasing bill. I think it is also a foregone conclusion that the Supreme Court of the State of Ohio will pass rules restricting ambulance chasing; ambulance chasing has to a very large extent in and about Cleveland, Ohio, become very detrimental to the

welfare of our members. The taking in of the State of Ohio will, because of the fact that the headquarters of the Brotherhood are located in Cleveland, enable the Grand Lodge to more satisfactorily supervise its workings and to test its practicability than if the experiment were made in a more distant state. Based upon the same method of calculations as applied to the country at large, it is estimated that a sum approximating \$4,500 per year in revenue for the maintenance of the LEGAL AID BUREAU will accrue from the handling of personal injury and death cases in the States of West Virginia and Ohio.

While this report has been somewhat verbose, I feel that the importance of the subject matter considered justifies my going into the subject very thoroughly. If it is found that a practical means can be adopted to eradicate the harmful influence of claim agents and ambulance chasers, and to place the adjudication of the rights of our injured men on a higher and a more business like plane, it will be, to my mind, the most progressive step taken by the Organization in many years.

In the preparation of this report I have been greatly assisted by Brother Don Hosmer, our Statistician, in the gathering and analyzing of statistical information.

Fraternally yours,

TOM J. McGRATH,
General Counsel.

Dated at Cleveland, Ohio, July 24, 1929.

[fol. 562]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 3

EXCERPTS FROM SPECIAL CIRCULAR NO. W-24

GRAND LODGE

BROTHERHOOD OF RAILROAD TRAINMEN

OFFICE OF THE PRESIDENT

Cleveland, Ohio, January 22, 1930.

To all Lodges and Members,
Brotherhood of Railroad Trainmen,
in the United States.

Sirs and Brothers:—

SHALL A LEGAL AID DEPARTMENT BE
ESTABLISHED IN THE GRAND LODGE FOR
THE PURPOSE OF ADVISING INJURED
MEMBERS, AND THE DEPENDENTS OF
THOSE KILLED, AS HEREINAFTER PRO-
VIDED?

[fol. 563] At the conference of the state legislative rep-
resentatives of the Brotherhood held in Washington, May
6 to 10, inclusive, 1929, the following resolution was
adopted:

"Whereas, Our organization does not maintain a
national legal aid bureau with regional organization or
contact for the purpose of advising our members as to
their legal rights in event of injury occurring in rail-
road service or the dependents in case of death, and

"Whereas, Reputable personal injury attorneys have raised the settlement fees for injury and death of our members by reason of their specialization in this field, and have secured settlements of the great majority of [fol. 564] such cases out of court for the reason that the railroad companies are aware that the injured members or their dependents have been properly and honestly informed of their rights; therefore, be it

"Resolved, That this national legislative conference request our President, Brother A. F. Whitney, to establish a legal aid bureau in our Grand Lodge office with regional organization or contact with reputable personal injury attorneys for the benefit of our injured members or their dependents."

At the first annual meeting of the International Association of General Chairmen of the Brotherhood of Railroad Trainmen held in Montreal, Quebec, October 1 to 5, inclusive, 1929, the following motion was adopted:

"That it be the sense of this Association that we endorse the principle of the legal aid bureau and recommend that the President of the Grand Lodge submit the question with his recommendation to a referendum vote of the lodges, or to the next convention of the Brotherhood, and in the meantime this Association recommends that the Brotherhood assist our members in the handling of personal injury cases by furnishing advice through our legal department."

In conformity with the spirit of these actions, the undersigned is herewith submitting for the consideration of all lodges the question of the establishment of a Legal Aid Bureau to function along the lines hereinafter set forth. It is to be understood that the plan outlined is more or less tentative in character, and is subject to certain modifications and refinements as further investigation and experience may dictate.

THE PLAN

(Approved by the Board of Directors, January 16, 1930)

The plan under consideration contemplates the establishment at Grand Lodge headquarters of a bureau to which injured members and the dependents of those who may be killed while engaged in railroad service may apply for information and advice relative to their rights respecting claims for damages, this bureau to be conducted under the supervision of the President of the Grand Lodge.

When a member is injured he will be privileged to write to the bureau furnishing such information relative to his injury as may be necessary to enable the bureau to determine his rights. The same privilege will be accorded to dependents of members who may be killed in service. This privilege will also be extended to the proper Brotherhood officers for the purpose of enabling them to assist in adjusting claims for damages in behalf of injured Brotherhood men and the dependents of those who are killed. A certain limitation, of course, will have to be placed on the character of inquiries which may be submitted to the bureau so as to avoid burdening it too heavily with work incident to the giving of advice in connection with minor injuries where employees are able to return to service. The bureau itself will not undertake to negotiate settlements directly with the railroad companies.

Arrangements will be made through the medium of the bureau with competent and reputable railroad damage suit lawyers at various strategic points in the United States to whom members may resort for advice and assistance in cases where they cannot satisfactorily adjust their claims direct with the railroads. No charge will be made for advice given by these regional lawyers except where the members, on their own volition, contract with the lawyers to prosecute their claims.

There will be no obligation on the part of the members of the Brotherhood to consult or employ lawyers agreeable to the Legal Aid Bureau for the above purpose.

Arrangements will be made with lawyers in the various localities governing the amount to be charged for their services, which will not exceed twenty per cent of the net

amount of any recovery which may be made by the lawyers in behalf of the injured man, or the dependents of one who has been killed.

Lawyers will advance all necessary expense to properly investigate, prepare and try cases where it is necessary to resort to court action. Claimants will not be required to assume any expense or to pay for service except in cases where, through the efforts of the attorneys employed by them, a recovery of damages is made.

The injured member, or the dependent, will at all times retain control of his case in the hands of the attorneys so that no settlements may be made without his approval. The right accorded to injured members and dependents to seek advice from regional lawyers without becoming obligated financially or otherwise will be extended to proper Brotherhood officers representing claimants.

The Brotherhood will not assume any responsibility for the care and maintenance of injured members during the pendency of the adjudication of their claims. This, of course, will not interfere with the usual assistance which [fol. 365] is given in needy cases by subordinate lodges, nor will it prevent members from entering into any agreements for maintenance which they may see fit to enter into with lawyers whom they have employed to handle their cases.

It must be understood that the Legal Aid Bureau will be entirely separate from the beneficiary and pension departments of the Brotherhood, and that no efforts which may be put forth by the bureau or any regional counsel to secure adequate compensation for injured men will be construed as having any relationship to the allowance or disallowance of insurance or pension claims. Regional counsel will be required to report all settlements and verdicts to the Legal Aid Bureau, together with a statement of facts showing the cause of the injury and the extent of the disability; this for the purpose of determining whether maximum results are being obtained by certain lawyers in certain districts as compared with those in other districts.

The Legal Aid Bureau will periodically disseminate information to the several regional counsel, gathered from the reports as sent in to the bureau, as well as from other sources.

The above is intended to give a general outline of the plan under consideration, and it is my desire that this circular be read at as many meetings of your lodge within the time limitation prescribed as possible and that the hereto attached ballot be returned to this office on or before March 16, 1930, with indication as to whether your lodge is "FOR" or "AGAINST" the establishment of a bureau for the purposes and along the lines suggested.

A majority of the members present at the meeting designated by the lodge for final action shall determine the vote of the lodge, and it will take two-thirds vote of the lodges in the United States to carry and make this proposition effective.

Fraternally yours,

/s/ A. F. WHITNEY
President.

BROTHERHOOD OF RAILROAD TRAINMEN

(President's Special Circular No. W-24)

Lodge No.

1930.

Mr. A. F. Whitney,
President, B. of R. T.,
Cleveland, Ohio.

Dear Sir and Brother:—

At a meeting of the above lodge held
1930, President's Special Circular No. W-24, pertaining to the establishment of a Legal Aid Bureau for the purpose of advising injured members and the dependents of those killed in railroad service was read, and I am instructed to notify you that the vote of said lodge was "....." the creation of such bureau.

(FOR or AGAINST)

Fraternally yours,

.....Secretary.

(SEAL)

[fol. 566]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 4

EXCERPTS FROM SPECIAL CIRCULAR No. W28

GRAND LODGE
BROTHERHOOD OF RAILROAD TRAINMEN

Office of the President

Cleveland, Ohio, April 15, 1930

LEGAL AID BUREAU

To all Lodges and Members,
Brotherhood of Railroad Trainmen,
in the United States.

Sirs and Brothers:

[fol. 567]

| | |
|--|-----|
| Number of lodges entitled to vote..... | 881 |
| Number of lodges returning ballot..... | 645 |
| Ballots necessary to carry proposal..... | 588 |

57

Number of lodges in United States not voting 228
Lodges from which ballots were received after ballot has
been closed

"FOR"

86-275-298-311-338-427-788-85

"AGAINST" None.

The establishment of the bureau, as well as the making of agreements with regional attorneys throughout the United States, will be consummated as soon as consistently possible, and notice of its establishment will be printed in the "Railroad Trainman" for the information and guidance of all members.

Briefly, the plan contemplates the establishment at Grand Lodge headquarters of a bureau, with the necessary legal and clerical assistance, to advise injured members, and the dependents of those who may be killed, as to their rights respecting claims for damage. This assistance will not only be given to injured members, and the dependents of those killed, but also to proper subordinate lodge officers and committeemen, for the purpose of assisting injured members, or dependents, in negotiating settlements. No fee or charge will be made to the members for this advice.

In order to secure advice it will be necessary to furnish the bureau with a full statement of facts surrounding the injury or death, so that questions of liability may be determined. In injury cases not involving the loss of limbs or other specific injuries, it will be necessary to furnish medical statements clearly describing the character and extent of the injury. In cases where investigations must necessarily be made before passing upon the question of liability, which instances are more likely to occur with reference to death cases, the Legal Aid Bureau will undertake to make the necessary investigations, calling to its assistance officers of subordinate lodges and committeemen. It is hoped a full measure of cooperation will be given by these members.

Because of the great volume of minor injuries occurring to members of the Brotherhood employed on railroads of the country, it will be impossible to give assistance or advice in cases of minor injuries where employees are able to return to work in a comparatively short time. It is felt that, at the outset at least, the bureau should not be requested to give information to employees who can return to work within ninety days. This attitude is taken not only because of the extremely increased burden of work which would be thrust upon the Legal Aid Bureau incident to answering inquiries relative to minor injuries, but by the further fact that it is invariably to the best interest of a railroad employee, receiving a minor injury, to return to work, thereby preserving seniority rights with his employer.

In the minor injury cases railroads usually pay for time lost and it is felt it is better in all cases to accept such set-

tlements than to employ lawyers. It is equally true that as time goes on, the committeemen will be familiarized with the rights of members under the law and will probably be able to assist injured members in negotiating adjustments of minor claims with reasonably satisfactory results.

[fol. 568] In all cases where the disability is not permanent and the member is able to return to his employment, it is the belief of the undersigned that every effort should be made to bring about amicable settlements with the railroad company. It is almost the uniform practice of the railroads of the United States to discharge an employee for employing a lawyer. It is also the practice of most railroads to refuse employment to applicants who have previously brought suit against another railroad. Age restrictions subscribed to and followed by most railroads militate against men, who have passed the prescribed age limit, who are seeking employment. We believe that by following a policy of attempting to reach fair settlements with the railroad employers of the country, taking the minor injury cases out of the hands of lawyers, we will be able to improve conditions with respect to the settlement of injury cases as they now exist.

In cases where employees are permanently injured so that they cannot return to their former occupation, it is expected that every fair and reasonable effort will be made to adjust claims for damages direct with the railroads, either by the injured member himself or through the medium of his chosen representative among the officers and members of the Brotherhood.

In cases where fair settlements cannot be obtained in this manner and where it appears necessary to litigate such claims, the Brotherhood will select attorneys located at strategic points in the United States, to whom injured members, and dependents of those killed, may resort for advice and assistance.

Our agreements with these attorneys will require them to advise members without charge with a view to enabling them, or their representatives among the officers and members of the Brotherhood, to negotiate settlements direct with the railroad company. In all cases where it becomes necessary to commence suit, these regional lawyers will

prosecute the cases of these members, and dependents, for a contingent fee of twenty percent of the net amount recovered in settlement of trial.

Contracts will be entered into directly between these lawyers and the claimants on forms approved by the Legal Aid Bureau. Regional attorneys will be required to advance all necessary court costs, expert witness fees, expense of medical examinations, etc. These expenses will be deducted from the amount of the recovery before a division is made of the net amount recovered. All expenses incurred in handling of claims by regional attorneys will be subject to approval by the Legal Aid Bureau. A small portion of the attorney's fee, not yet definitely determined upon, will be turned over to the Grand Lodge for the purpose of maintaining the Legal Aid Bureau. There will be no obligation upon the part of members to consult or employ regional counsel, but we believe it will be to their best interest to do so in cases where such consultation seems advisable for the reason that the Brotherhood will contract only with high class, capable and experienced railroad damage suit lawyers, and the charges in such cases will be from thirteen to thirty percent less than is now charged for similar service.

The injured member, or dependent, will at all times retain control of his case in the hands of the regional attorney, so that no settlement may be made without his approval.

The Brotherhood will not assume any responsibility for the care and maintenance of injured members during the pendency of the adjudication of their claims. This, of course, will not interfere with the usual assistance which is given in needy cases by subordinate lodges, nor prevent members from entering into any agreements for financial assistance which they may see fit to enter into with lawyers they have employed to handle their claims.

It must be understood that the Legal Aid Bureau will be entirely separate from the beneficiary and pension departments of the Brotherhood, and that no efforts which may be put forth by the bureau or any regional counsel to secure adequate compensation for injured men will be construed as having any relationship to the allowance or disallowance of insurance or pension claims. Regional attorneys will be

required to report all settlements and verdicts to the Legal Aid Bureau, together with a statement of facts showing cause of the injury and extent of the disability; this for the purpose of determining whether maximum results are being [fol. 569] obtained by certain regional lawyers in certain regions as compared with those in other regions.

The Legal Aid Bureau will periodically disseminate information to the several regional counsel, as well as to the lodges and members, bearing upon the rights of injured railroad men and the work of the bureau.

Fraternally yours,

/s/ A. F. WHITNEY
President

[fol. 570]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 5

RULES AND REGULATIONS GOVERNING RELATIONS OF
REGIONAL COUNSEL AND THE BROTHERHOOD OF RAILROAD
LEGAL AID DEPARTMENT

Regional lawyers will be selected in various railroad centers of the United States with a view to rendering the service contemplated by the establishment of the Legal Aid Department with the greatest degree of efficiency, keeping in mind the convenience of members and total membership in a given district so as to give the regional lawyers a reasonable assurance of a sufficient volume of Brotherhood business to warrant the rendering of proper service on the basis of compensation agreed upon.

When the regional lawyers are selected, and from time to time thereafter, articles will be published in the Trainmen's journal informing members of the services rendered by the Legal Aid Department and advising them also of the names and addresses of the regional lawyers.

When members are injured, either they or proper officers of their grievance committees or subordinate lodges, acting on their behalf, or in cases of the accidental death of members, their dependents, may write or call on the Legal Aid Department personally for information and advice as to their legal rights. They will be required to furnish as nearly as possible, a full and complete statement of all the facts surrounding the accidental death or injury. This will include written statements of witnesses, whenever and wherever obtained. Injured members, where there is any question as to the nature and extent of the disability, will be required to furnish statements from medical examiners.

In all major injury or death cases, upon request of the injured man or dependent, or an officer of the Brotherhood authorized to represent the claimant, an investigator employed by the Legal Aid Department will be assigned to investigate and ascertain the facts surrounding the accident or death. Reports of such investigation will be filed with the Department and when any such cases are referred to or brought to the regional counsel, copies of such reports will be sent to them. The Legal Aid Department will endeavor to provide means for securing promptly, after the occurrence of all accidental injuries or deaths, the name and address of the injured member or dependents, as well as the character of the injury, so that the claimants may be expeditiously informed that the services of the Department and of regional counsel are at his or her disposal.

Members and their dependents, upon request therefor, will be advised as to the best course to pursue, in the judgment of the Legal Aid Department, to effect a settlement, [fol. 571] including advice as to what amount in the judgment of the Department, would constitute a fair settlement of the claim. The affairs of the Legal Aid Department will be conducted with the thought in mind primarily of encouraging amicable settlement, particularly in cases where total and permanent injury has not been sustained.

Requests for information and advice in minor injury cases will be discouraged in order to prevent the burden imposed on the Legal Aid Department from becoming unduly heavy and thereby unreasonably expensive.

In cases where close questions of liability are involved and intricate detailed information is essential to a proper determination of a member's rights, he may be referred to the regional attorney of his district. It will be the duty of this attorney to counsel with and advise the injured member with a view to enabling him or his Brotherhood representative to effect a fair settlement. The Legal Aid Department will insist that regional lawyers in such cases advise members solely with a view to promoting the best interests of the member. Any over-reaching on the part of regional lawyers intended to induce members to sign contracts of employment will be discountenanced. In brief, the Legal Aid Department will expect the regional lawyers to advise members of the Brotherhood in exactly the same way as they would advise a client who came in to them and paid for legal advice.

The Legal Aid Department will endeavor, through the medium of the Trainmen's journal and circulars periodically sent to officers and lodges, to keep the membership advised as to the names and addresses of regional counsel in their respective districts. It is anticipated that members and dependents, or lodge officers representing them, may go direct to regional counsel in their respective districts for information and advice, and all such cases will be handled by regional counsel in the same manner as if referred to them by the Legal Aid Department. In any such cases where major injuries are involved, a Legal Aid Department investigator will, at the request of the regional counsel, be assigned to investigate such cases, making a report in duplicate, one copy to the regional counsel and one copy to the Legal Aid Department.

In cases where members have exhausted their efforts in attempts to procure settlement, they will be referred to regional attorneys, with whom contracts may be made for the prosecution of their claims. It must be understood that [fol. 572] the Brotherhood cannot undertake to control the actions of members in this regard, and that they will remain free to employ attorneys of their own choice.

Regional attorneys will be required to report all cases handled by them in which a contract has been entered into with members of the Brotherhood, setting forth a state-

ment of the facts involved, together with the amount of settlement or verdict received.

Regional counsel will be privileged to advise with the Legal Aid Department on questions of law, and it will be the policy of the department to disseminate information gathered from the several regional districts among all the regional counsel of the Brotherhood from time to time.

It will be understood that members will have control of their cases in the hands of regional counsel, and that no settlement of any case can be made without the consent of the client.

While the membership will be advised as to the names and addresses of regional counsel for their particular line of railroad, it will be impossible to control their choice of attorneys, and each member or dependent will have the option, either for reasons of choice or convenience, to consult with or employ any regional counsel. All cases involving injuries or death to members of the Brotherhood, either brought or referred to regional counsel, shall be considered as Brotherhood cases. The same rule shall apply in either personal injury or death cases which may be referred to counsel by the Legal Aid Department or its investigators.

APPROVED: _____

764

[fol. 573]
Form LA-1

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 6

BROTHERHOOD OF RAILROAD TRAINMEN
LEGAL AID DEPARTMENT

REPORT OF INJURY OR DEATH SUSTAINED WHILE ON
DUTY ON A RAILROAD

C. R. MAHER, Chief Clerk, Date _____, 195____
Legal Aid Department,
Brotherhood of Railroad Trainmen,
Standard Building,
Cleveland 13, Ohio

Dear Sir and Brother:

I hereby notify you of the _____ of
(Injury or accidental death)

Brother _____ Age _____ Lodge No. _____
(Print Name)

Social Security No. _____

Address _____ Phone No. _____
(Street) (City) (State)

Date occurred _____ Time _____ M. Place _____

Occupation _____
(If Road Service, Show Thru or Local)

Employed on _____ Daily rate _____
(Railroad)

Name of hospital _____ City _____

Nature and extent of injury: _____

Cause of injury or death

(Describe just how accident happened and in what way company
is to blame for accident)

Wife's Name

Address, if not same:

Number of
Dependents Ages and Relationship:

Names and addresses of witness,
also crew members:

Fraternally yours,

(Sig.)

Secretary Lodge No.

To be used for reporting cases of injury or accidental death.
Mail IMMEDIATELY upon receipt of information of such in-
jury or accidental death, even though all facts as to cause
of accident are not yet available. Send additional informa-
tion by letter as soon as obtained.

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 7

BROTHERHOOD OF RAILROAD TRAINMEN

LEGAL AID DEPARTMENT

This report of accident must be filled out carefully, accurately and plainly, as the information contained herein will be used by our Legal Counsel as a basis for his opinion as to your rights under the law. If more space is required to answer any question, a separate sheet of paper may be used and attached hereto.

City Date 19....

1. Name Member Lodge No.

(Print)

Social Security No.

2. Address Phone No.

(Street) (City) (State)

3. Married or single Age Does wife work

4. How many dependent children and ages

5. Railroad employed by Job when hurt

6. Number of years employed

How many months worked out of last year

7. Date of accident, 19... Hour

Weather

8. Where did it happen?

Were you on duty?

9. Were you immediately disabled?

If not, when?

10. Taken home or to a hospital?

Name of hospital

11. How long disabled?

12. What injury or injuries did you sustain?

13. Give the names of the doctors
who treated you—Company

Personal

14. Are you now under medical care?

Doctor's name

15. Describe how accident occurred and in what way
you think company was at fault (Describe fully)

[fol. 575]

16. Give names and addresses of witnesses to the accident

.....

17. Name and addresses of crew with whom you were working when injured

| Name | Occupation | Address |
|-------|------------|---------|
| | | |
| | | |
| | | |
| | | |

18. Were you engaged in Interstate Commerce

19. Were you engaged in through freight, local freight, work train, yard or passenger service at time accident occurred? service.

Daily rate of pay \$.....

20. Do still suffer pain?
 Describe it

.....

21. Have X-rays been taken?

When were they taken?

By whom were they taken?

Where taken?

22. What do they show?

.....

23. Have you worked since accident, if so, what kind of work have you done?

24. Approximate monthly earnings \$.....

Total past year \$.....

25. How much A. & H. Insurance do you carry?

26. Has the claim agent interviewed you?

27. Have you given a statement to the company?

Who took it?

28. When was it taken?, 19....

Where?

29. Do you have a copy of it?

If so, please attach same

30. Have you signed any release to the company?

Amount of settlement \$.....

31. Have you signed any contract with a lawyer?

If so, with whom?

32. What has been offered to you in settlement?

33. Do you believe you can eventually return to work?

About when?

34. Would you prefer to return to your job if possible?

35. Remarks:

(Signed)

770

[fol. 576]

Form F-LA-2D

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 8.

This report of death must be filled out carefully, accurately and plainly, as the information contained herein will be used by our Regional Counsel as a basis for his opinion as to your rights under the law. If more space is required to answer any question, a separate sheet of paper may be used and attached hereto.

City Date 19...

1. Full name of deceased
Member Lodge No.
2. Address Phone No.
(Street) (City) (State)
3. Age at time of accident
Date of next birthday 19...
4. By whom employed?
Occupation
5. Number of years employed
Has employment been steady?
6. Approximate monthly earnings \$
Total past year \$
7. Date of accident 19...
Hour Weather
8. Where did it occur?
Was deceased on duty?
9. Where was deceased taken
following accident?
10. When did deceased die? Date 19...

Hour Place of death

Cause of death

11. What injuries did deceased sustain?

12. Names of doctors
who treated deceased

13. Company or family doctors?

14. How long was deceased
conscious following his injury?

15. Did deceased tell anyone
how his accident happened?

If so, give their names and addresses.

16. Describe how accident occurred and who was to blame

[fol. 577]

17. Give names and addresses of witnesses to the accident

Occupation

Address

19. Interstate Commerce: Was there any freight in the cars that the crew was handling at the time of the accident that came into the State from a point outside of the State or that was going through the State, or that was billed to a point outside of the State? If not, what general work was performed by the crew before and after the accident? _____

20. Was deceased engaged in through freight, local freight, work train, yard or passenger service at time accident occurred? _____ service.

Rate of pay \$.

21. Did deceased give any statement concerning his accident to the company before death?

If so, who took it?

When was it taken?

Where was it taken?

Do you have a copy of it? If so, attach same.

22. Did deceased sign any release to the company?

23. Has any contract been signed with a lawyer?

Who signed it?

24. Full name and age of widow Age

25. If deceased had other dependents, give following information:

| Name | Age | Address | Relationship to Deceased |
|------|-----|---------|--------------------------|
|------|-----|---------|--------------------------|

| | | | |
|-------|-------|-------|-------|
| | | | |
| | | | |
| | | | |

26. Has an Executor or Administrator been appointed?

27. If so, give full name and title

28. Did the claim agent interview the widow or dependents?

29. What has been offered in settlement?

30. Had deceased been injured before?
When?

31. What injuries did deceased receive at that time?

32. What settlement did deceased make for these injuries?

33. Name and address of funeral director?

34. Amount of funeral expenses \$
Has bill been paid?

35. Was deceased in good health at time of his accident?

36. Remarks: (Did deceased make any statement before death?)

.....
.....

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 9

BROTHERHOOD OF RAILROAD TRAINMEN

City State Date

Special accident report, covering injury or death of trainmen due to sudden start, stop, jerk, lurch, or slack action of trains, which will be treated as confidential when requested.

- | | |
|--|-----------------------------|
| A. Name of Railroad | I. Fireman |
| B. Division | J. Head Brakeman |
| C. Place | K. Swing Brakeman |
| D. Date | L. Flagman |
| E. Train No. | M. Cars in train |
| F. Engine No. or Nos. | N. Loads |
| G. Conductor | Empties |
| H. Engineer | O. Time of Accident |
| P. Cause of Accident | |
| Q. Approximate cost of damage to equipment | |
| R. Approximate cost of damage to track | |
| S. Delay to train or trains | |
| T. Name or names of persons killed | |
| U. Name or names of persons injured | |
| V. Describe injury | |
| | |
| | |

W. Details of accident and other information believed to
be important

.....

.....

.....

.....

.....

.....

.....

Treat confidential—
(Yes) (No)

Local Chairman

(or)

Legislative Representative

Lodge No.

Checked and approved by:

..... R. R.

General Chairman.

Note: Reports should be mailed to general chairman of
line on which accident occurred. The general chairman
will check report for discrepancies, and then forward to
Legal Aid Department, 1246 Standard Building, Cleve-
land 13, Ohio.

[fol. 579]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 10

Special Circular No. W-32.

GRAND LODGE

BROTHERHOOD OF RAILROAD TRAINMEN

LEGAL AID BUREAU

Cleveland, Ohio, August 15, 1930.

To Secretaries,
All Lodges, B. of R. T.,
In the United States.

Dear Sirs and Brothers:

In order to enable the Legal Aid Bureau of the Brotherhood to be of the greatest possible assistance to our members who may be accidentally injured on railroads, and to dependents of members accidentally killed in railroad service, we have prepared a blank form to facilitate the filing of preliminary reports in such cases with the bureau. A supply of such reports is being sent herewith, and additional copies may be had upon request to the Legal Aid Bureau, B. of R. T., 820 West Superior Avenue, Cleveland, Ohio. Reports should be submitted only in cases of serious injury, or death.

Promptness in reporting the facts surrounding any case is a very important factor, and with a view to insuring as far as possible that reports will be forwarded to the bureau without delay, it is requested that each lodge designate at least one member whose duty it shall be to submit reports of this character to the bureau.

Generally, local chairmen are in close contact with members employed under their jurisdiction and for that reason

it would seem advisable to select them for this purpose. However, where the president, secretary or treasurer, or some lay member of the lodge, is in better position to handle these reports, one of such officers or members should be selected. Where a lodge has jurisdiction over more than one division or line of railroad, someone should be selected for each line or division. The name and address of the member or members selected, and a statement of the territory over which he or they have jurisdiction, should be promptly reported to the Legal Aid Bureau.

The prompt forwarding of these reports to the bureau, which should include all the facts in each case, will greatly assist the bureau in serving the member directly concerned or his dependents, if called upon to do so, and we therefore trust we may have your full co-operation.

Fraternally yours.

TOM J. McGRATH, General Counsel.

Approved:

A. F. WHITNEY, President.

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 11

BROTHERHOOD OF RAILROAD TRAINMEN

INVESTIGATOR'S COMMISSION

Reposing special confidence in the integrity and ability
of Brother

of lodge, I hereby commission him to be an
investigator for the Brotherhood of Railroad Trainmen,
reporting to me the results of any investigation conducted
by him for the Brotherhood.

[Label]

*Given under my hand and seal of the Grand
Lodge, and to continue in effect during the
year indicated on the face of this card, or
until earlier revoked by proper authority.*

[Emblem]

.....
President

Signature of investigator
.....

[fol. 581]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBITS 12 & 12A

EXCERPTS FROM PRESIDENT'S ANNUAL REPORT OF 1930

LEGAL AID BUREAU—ESTABLISHMENT OF

[fol. 582] In his report Brother McGrath recommended the establishment of a bureau for the purpose of aiding and assisting our injured members in securing just compensation for their injuries.

Due to the fact that any plan that might be outlined would be more or less experimental in character, and because of the fact that the greatest need for such service appeared to emanate from the state of West Virginia, it was recommended that the Grand Lodge Legal Department undertake to advise our members in West Virginia and Ohio, and to arrange for the prosecution of their claims, where satisfactory adjustments could not be made direct with the railroads, by competent and experienced damage suit lawyers on a fee basis substantially below that ordinarily charged for such services.

As the question of establishing such a bureau appeared to be one of considerable importance, I listed it among other subjects for discussion at the meeting of the International Association of General Chairmen which was held at Montreal, Quebec, October 1 to 5, 1929. At this meeting various subjects were listed for discussion, among others the question of the advisability of creating a legal aid bureau at Grand Lodge headquarters for the purpose of advising and assisting injured members, and the dependents of those who might be killed while engaged in railroad service. After the subject had been discussed from all viewpoints the following resolution was presented and adopted by an overwhelming vote:

"Moved by Stokes and McCook that it be the sense of this association that we indorse the principle of the

legal aid bureau and recommend that the President of the Grand Lodge submit the question with his recommendation to a referendum vote of the lodges, or to the next convention of the Brotherhood, and in the meantime this association recommends that the Brotherhood assist our members in the handling of personal injury cases by furnishing advice through our legal department."

In order to ascertain the sentiment of the lodges in the United States in accordance with the recommendation embodied in the foregoing resolution, a referendum was submitted to such lodges in which the question submitted was:

"Shall a legal aid department be established in the Grand Lodge for the purpose of advising injured members, and the dependents of those killed as hereinafter provided?"

The referendum was submitted to the lodges under date of January 22, 1930, with an explanation of the purpose of the bureau. It was also stated in the circular accompanying the referendum ballot that it would be necessary that not less than two-thirds of all of the lodges in United States vote for the establishment of the bureau before it would be instituted. At that time there were 881 lodges in the United States. Five hundred and ninety-nine voted in favor of the establishment of the bureau; 54 lodges voted against it; 228 did not vote at all. The number of votes necessary to adopt the plan was 588. It will be noted that not only did the proposal receive more than the necessary two-thirds vote but that of those lodges voting the ratio in favor of establishing the bureau was better than eleven to one.

[fol. 583] After the receipt of approval of the lodges, as hereinbefore set forth, the General Counsel of the Brotherhood, by direction of the President, set about to organize the bureau.

The Brotherhood, in order to afford the relief desired, entered into agreements with attorneys who agreed to

handle and prosecute claims for members of the Brotherhood on a contingent fee basis, returning to the Brotherhood a certain proportion of their fees for the maintenance of the bureau.

As there appeared to be no particular need for such a bureau in Canada, the plan has, up to the present time, been confined to the United States.

Due to the fact that approximately 85% of the claims are governed by the provisions of the Federal Employers' Liability Act, under which law it is possible to sue a railroad for damages in any county or federal court district in any state in which a railroad operates, it was possible to confine the selection of regional counsel to a comparatively few lawyers and law firms. The fact that the law permits suits to be brought at any point where service can be had on the railroad is one of the most important factors in enabling the organization to organize the bureau on the plan which has been adopted.

As will be pointed out hereinafter, the duties of regional counsel of the Brotherhood are such that they are justified in expecting that the number of such counsel will be so limited that each one may reasonably expect to secure a sufficient number of retainers to reasonably compensate them for the services rendered to the Brotherhood.

[fol. 584] Agreements have been entered into with fifteen lawyers or law firms located in the following cities:

New York, N. Y.
 Boston, Mass.
 Minneapolis, Minn.
 Syracuse, N. Y.
 Cleveland, Ohio
 Chicago, Ill.
 Portland, Ore.
 Kansas City, Mo.
 St. Louis, Mo.
 Houston, Tex.
 Baltimore, Md.
 Birmingham, Ala.
 Atlanta, Ga.
 San Francisco, Calif.
 Denver, Colo.

We believe that these lawyers, located as they are at strategic points in the United States, will serve to take care of the needs of claimants for some time, at least, and until experience of the Legal Aid Bureau dictates the necessity or wisdom of adding additional regional counsel or changing the points at which such counsel are located.

THE PLAN

Succinctly, the plan upon which the Legal Aid Bureau is based, and the manner in which it functions, is as follows:

Each subordinate lodge of the Brotherhood in the United States has been asked to appoint one or more members whose duty it shall be, upon the occurrence of a major injury to one of our members while engaged in railroad service, to report on blanks provided for that purpose, the happening of the event. Upon receipt of such report the Legal Aid Bureau immediately communicates with the claimant, rendering the service of the bureau. The claimant is advised that if he will furnish the bureau with a detailed statement of the facts surrounding the injury or death, as the case may be, the bureau will endeavor to give him such information and advice as will assist him in negotiating a satisfactory settlement with his employer.

The claimants are also advised that, in cases where it is apparent that a first hand investigation should be made to develop the facts surrounding an accident in order to determine the question of liability, a trained investigator in the employ of the bureau is at his disposal for that purpose. Where a request is made for such an investigation, either by the claimant, or, in the event of his incapacity, by a responsible officer of his lodge, an investigator is, as expeditiously as possible, assigned to gather all of the facts and information which may be of value in determining the rights of the claimant. For this purpose the Brotherhood has already engaged the services of five experienced investigators who are working upon a full time basis. In addition to that, arrangements have been made with four additional investigators who work on a part time basis investigating such cases as may be assigned to them for that purpose. As the needs of the bureau increase

additional investigators to adequately perform the services required of them will be engaged.

When an investigation has been completed a full and detailed report covering all phases of the accident is made to the Legal Aid Bureau, after which the claimant is given such further and additional advice by the bureau as may be proper under the circumstances. Whenever it becomes [fol. 585] necessary for a claimant to engage regional counsel the reports of the investigator are turned over to regional counsel for his use.

In addition to securing information through the medium of correspondence, claimants are privileged to, and many of them do, come to the headquarters of the bureau in Cleveland for advice. This service is also at the disposal of committeemen who undertake to assist claimants in procuring settlements.

It is a fundamental policy of the bureau to handle all matters with a view to enabling the claimant to make the best possible settlement with the employer without resorting to the courts. Where it is possible for an injured man to return to work and thus preserve his seniority, particularly where he has acquired a worthwhile place on the seniority roster, the wisdom of trying to make a fair settlement without engaging a lawyer is stressed by the representatives of the bureau.

Naturally, many cases arise in which an employe and the railroad company are unable to agree upon the amount of compensation. In such cases the employes may enter into contracts with regional counsel calling for the prosecution of their claims upon a contingent fee basis of 20%. In addition to the privilege accorded a member to have his claim prosecuted by these lawyers, the rules which have been agreed upon between regional counsel and the Brotherhood require that these lawyers shall consult with and advise claimants as to their rights in exactly the same manner that the representatives of the bureau do when claimants call upon them at Cleveland, and for this they are permitted to make no charge.

It will be seen that, in effect, the Brotherhood has established sixteen offices, including the Legal Department of the Brotherhood, to which our injured members, or the dependents of those who may be killed, may go for information and advice concerning their claims for damages without being charged anything for that service.

Regional counsel have been impressed with, and have readily responded to, the proposition that no claimant shall be encouraged to employ counsel or to commence suit against a railroad until he, in his own mind, has satisfied himself that he cannot make a fair and amicable adjustment with his employer. Even after these attorneys have been employed by claimants the rules of the bureau require that before commencing suits they shall give the railroads a reasonable opportunity to settle the cases.

The above is a more or less general outline of the plan of the bureau. The General Counsel will set out in his report in some detail the work which has been carried on by the bureau since its inception.

Notwithstanding the fact that the bureau has been handicapped to some extent by reason of lack of adequate financial resources, as well as the fact that because it is a new departure in the affairs of the Brotherhood, necessitating a certain amount of education among our members as to its purpose, I am of the opinion that in the comparatively short time that the bureau has been in existence it has accomplished some splendid results in behalf of our members, and that as time goes on it will prove to be one of the worthwhile departments of the Brotherhood.

The General Secretary and Treasurer and myself, from time to time, have authorized for the necessary support of the bureau the expenditure of amounts from the General Fund of the Brotherhood to enable the bureau to carry on its work. These advances have been in the nature of loans to be returned to the General Fund as fees accrue from the handling of damage claims by regional lawyers.

At the time that this report is written there has been advanced to defray the expenses of the bureau the sum of \$19,827.60, of which amount \$6,429.96 has been paid back, leaving the bureau indebted to the General Fund in the [fol. 586] sum of \$13,397.64 as of January 31, 1931. A conservative estimate of the amount of money which is likely to accrue from cases which are now in the hands of attorneys for adjustment will more than wipe out the present deficit.

[fol. 587]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 13

EXCERPTS FROM GENERAL COUNSEL'S ANNUAL REPORT, 1930

Report On Legal Aid Bureau

Details leading up to the institution of the Legal Aid Bureau have been reported on in the President's annual report for 1930. On April 15, 1930, the President's special circular W-28 was issued. This circular reported the result of the referendum, which showed the endorsement of the Legal Aid Bureau by more than two-thirds of all of the lodges of the United States, and outlined to the membership the basis upon which the Bureau is intended to function. Immediately after that date, steps were taken to place the bureau in operation. Because of the fact that this was an innovation in the affairs of the organization and somewhat experimental in character, we proceeded to set up machinery to handle the affairs of the Bureau, with a good deal of caution. Due to the fact that it was necessary for the undersigned to carry on the routine legal business of the Brotherhood, it has not been possible to devote as much time to the establishment of the Bureau as might have been desirable, as a result of which, there has been more or less delay in getting under way.

One of the first steps to be taken was the selection and employment of investigators, and another and equally important step was a selection of regional counsel. In each instance, we have sought to engage the services of the best qualified men in the territory in which they were chosen to serve. Because of the acquaintance of the President and the undersigned with the conditions in the northwest territory by reason of first-hand contact, it was comparatively easy to make a selection of investigators and attorneys for that territory. And on May 1, 1930 the Bureau commenced to function on the railroads operating in that section of the country, with the selection of the firm of Davis, Michel, Yaeger & McGinley, of Minneapolis, Minnesota, as regional counsel for that district. At about the same time, arrangements were made with the firm of Newcomb, Newcomb and Nord, of Cleveland, Ohio, to represent our men in the Cleveland territory, which embraces in addition to Ohio, the state of West Virginia and parts of Pennsylvania, Kentucky and Indiana.

Because of the importance of selecting lawyers who, because of their experience, ability and character, were considered to be the best available for our purposes in the respective territories, it was felt that personal investigation by General Counsel should be made in each city where it was intended to locate regional counsel. A good deal of time was spent in apportioning the country and then, as the other legal affairs pertaining to Grand Lodge matters would permit, the undersigned visited various cities for the purpose of investigating and interviewing prospective appointees to represent the membership.

In selecting the location for regional counsel, various elements were taken into consideration, including accessibility to the membership to be served; the attitude of courts and juries at the point selected; and the opportunity for selection of competent counsel. Because of what appeared to be an unfavorable attitude on the part of the courts in some instances, and the unfavorable attitude of juries in other instances; because of delay incident to the handling of cases in certain jurisdictions and unfavorable court rules militating against the interests of claimants, certain states

were eliminated in the course of our consideration preliminary to locating the points at which regional counsel would be selected.

On May 15, 1930, an agreement was entered into by Mr. Joseph D. Ryan to represent Chicago and adjacent territory. On June 20, 1930, Mr. Thomas C. O'Brien was selected to serve the membership in the New England states. On June 25, 1930, Mr. Thomas J. O'Neill, of New York, was selected to represent New York City and the Atlantic Seaboard, including eastern Pennsylvania and part of Connecticut. On August 11, 1930, Searl & McElroy, of Syracuse, New York, were selected to represent western New York and north central Pennsylvania. On September 2, 1930, Mr. Charles Murphy of Houston, Texas, was selected to represent the Texas territory and part of southern Louisiana. On September 12, 1930, Mr. Frank C. Hanley, of Portland, Oregon, was selected to represent the north Pacific territory. On September 25, 1930, the firm of Foristel, [fol. 588] Mudd, Blair & Habenicht were selected to represent St. Louis and adjacent territory. And on the following day, the firm of Walsh & Aylward, of Kansas City, were selected to represent that territory. On October 9, 1930, Mr. Isaac Lobe Straus, of Baltimore, Md., was selected to represent that territory. Due to press of other Grand Lodge business, it has been impossible to engage attorneys to represent the membership in the balance of the country, but it is anticipated that very shortly we will have attorneys at Birmingham, Ala., Atlanta, Ga., San Francisco, Calif. and Denver, Colo.

In all of the selections above mentioned, except that of Mr. Frank C. Hanley and Mr. Charles Murphy, the undersigned went to the cities in which regional counsel live, and made a thorough investigation of all reputable attorneys, who were recognized as specialists in the handling of railroad damage suits, in each of the cities named. Information as to the standing and ability of these lawyers was obtained by interviewing, in many instances, local lodge officers, officials of local bar associations, judges of courts and insurance lawyers, who had theretofore handled business either for this or some other labor or insurance organi-

zation, and every available means was resorted to, to determine who best to engage. Messrs. Hanley and Murphy are and have been for many years, members of the Brotherhood and their reputation, standing and ability have been thoroughly known to the Grand Lodge officers for years. I think that we may safely say that in every instance we have selected the very best attorneys available.

Because of the fact that the business of the Bureau developed and is developing very gradually, and with a view to minimizing as far as possible, consistent with good service, the expense incident to the establishment and operation of the Bureau, investigators have been employed in some instances on a part time basis, with the understanding that if and when the needs of the Bureau warranted it, these men would be placed upon a full time basis. Our investigators, so far as it has been possible to do so, have been selected from among those who have had experience in the investigation of personal injury cases. They are all members of the Brotherhood.

At the time of making this report, a full-time investigator has been employed to serve our injured members and the dependents of those who may be killed in the northwest territory. He also serves the membership in the St. Louis and Kansas City territory, and assists in connection with cases arising in the Chicago territory. We also have a full time investigator representing the Bureau in New York City and adjacent territory. We have two full time investigators serving in Ohio and adjacent territory. We have part time investigators located at Syracuse, Chicago, San Francisco and Spokane, the latter to serve the north Pacific territory. These men investigate only such cases as are assigned to them for that purpose, and are paid on a per diem basis. At the present time, we are investigating and negotiating with certain other members of the Brotherhood to act as part time investigators in sections of the country not already covered.

The good which the Bureau may and is intended to do, has been retarded to some extent by lack of information on the part of the rank and file of members as to its having been established, as well as to its purposes, notwithstanding

that a good deal of publicity has been given to the Bureau through the medium of circulars sent to the lodges, as well as through the columns of the journal. Under date of August 15, 1930, a circular was sent by the Grand Lodge to all subordinate lodges, asking that each lodge appoint one or more members to report accidental death and major injury cases, so that the services of the Bureau might be tendered to claimants. Up to the time of making this report, only one hundred and seventy lodges out of a total of eight hundred and eighty one, had made such appointments. We notice, however, from day to day, an apparent increase in the demands being made upon the Bureau, as well as other evidence that the membership is gradually becoming to know and recognize the value of the department.

In an article appearing in the Railroad Trainman for September, 1930, all local and general chairmen were notified to report settlements of cases negotiated by them, to the Legal Aid Bureau. The article referred to; appeared over the name of the undersigned with the approval of the President of the Brotherhood attached. While no direct [fol. 589] communication was sent to general and local chairmen, it is reasonable to assume that most of them saw and read this article. However, there has been but one report by one general chairman. Neither have the general or local chairmen availed themselves of the services of the Bureau to any appreciable extent. Those who have done so, I am convinced, have been well pleased with the aid given them by the Bureau.

[fol. 590] Considering the fact that the Bureau has been in existence but eight months; that we have not been able to devote as much time and attention to it as might be considered desirable; that it is experimental in character; that the members of the Brotherhood have been slow to learn of its existence and to realize its purpose, I believe that the foregoing report indicates the need for such a department of the Brotherhood and the good that will undoubtedly result from the proper operation of the same. The results which have been obtained have been highly gratifying to the undersigned and we have received many expressions of

commendation from members of the Brotherhood and dependents whom the Bureau has assisted.

The statistical information which will accrue from the operation of the Bureau should be of incalculable value to the Brotherhood. With the limited experience which we have had up to the present time it seems perfectly evident that there is great need and good reason for amending the Federal Employers' Liability Act, particularly with reference to the defense of assumption of risk. The number of fatal and serious injuries resulting from the use of hand brakes is appalling and the evidence virtually conclusive that safer and more efficient braking appliances should be adopted.

RECAPITULATION

| | |
|--|-----|
| Cases in which inquiries were made and the services of the Legal Aid Bureau extended | 398 |
| Cases settled direct with railway company by injured party with the assistance of regional counsel and the Legal Aid Bureau and without expense to the claimant..... | 6 |
| Cases settled direct with railway company by injured party after regional counsel had been employed | 2 |
| Cases investigated and settlements effected.... | 18 |
| Cases pending in hands of regional counsel.... | 48 |
| Cases settled by regional counsel—Totaling \$112,825 | 14 |
| Cases investigated and in which Bureau has not as yet been advised of final disposition | 78 |
| Total | 564 |

Respectfully submitted,

TOM J. McGRATH,
General Counsel.

[fol. 591]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 14

EXCERPTS FROM BOARD OF TRUSTEES ANNUAL REPORT (1930)

LEGAL AID DEPARTMENT

BROTHERHOOD OF RAILROAD TRAINMEN

HISTORY OF ESTABLISHMENT

Excerpts from Board of Trustees' Annual Reports:
(1930)

President Whitney in his desire to protect our injured members and the dependents of members being killed, conceived the thought of establishing this Bureau and listed it among other subjects for discussion at the meeting of the International Association of General Chairmen held at Montreal, Quebec, October, 1929 when a Resolution was adopted by that Association endorsing the principle of the Legal Aid Bureau and recommended that the President of the Grand Lodge submit the question with his recommendations to a referendum vote of the lodges in the United States.

The State Legislative Representatives of the Brotherhood at their National Conference at Washington, May 6th to 10th inc., 1929, adopted a similar Resolution to that of the International Association of General Chairmen and requested the President to establish this Bureau.

The President, in accordance with the above recommendations, had prepared and introduced to the Board of Directors at their January, 1930 meeting, a tentative circular embodying a plan for the establishment of such a Bureau at Grand Lodge Headquarters. The Board, after giving careful consideration to the subject, went on record as accepting the plan and directed that the matter be referred to a referendum vote of the lodges in the United States.

The President, in order to obtain the sentiments of the lodges, submitted Special Circular No. W-24 with a referendum ballot to all lodges in the United States under date of January 22, 1930. At that time there was 881 lodges concerned in the plan, 599 voted in favor, 54 voted against and 228 did not vote at all. It required a two-thirds vote or 588 lodges to approve the plan.

[fol. 592]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 15

EXCERPT FROM PROCEEDINGS OF THE
SIXTH TRIENNIAL CONVENTION

The convention was now up to the special order of the day—consideration of the resolution relative to the Legal Aid Department.

WHEREAS, as a result of the affirmative vote of more than two thirds of the subordinate lodges of the Brotherhood, in the United States, the Legal Aid Department was established, and has been operating since May 1, 1930, and

WHEREAS, In order to establish said department, and to finance its early operations it was necessary that funds for such purpose be provided, and

WHEREAS, The President and the General Secretary and Treasurer advanced certain sums from the General Fund of the Brotherhood for that purpose, and

WHEREAS, The Committee on Grand Lodge officers reports in passing upon the action of the President and the General Secretary and Treasurer, in advancing said funds made the following statement: "We approve this part of the President's report, but we feel that if any further funds are to be advanced to maintain the Bureau the convention should pass on this question" and

WHEREAS, The establishment of the Legal Aid Department, has already proven a boon to many of the crippled

members of the Brotherhood, and the dependent widows and orphans of those killed in the performance of their duties, and

WHEREAS, The men engaged in the several classes of railroad employment represented by the Brotherhood are working in one of the most hazardous of occupations, and should have some proper means by which those seriously injured in service, may procure reliable advance and assistance to enable them to procure just and reasonable compensation from their employers, and the dependents of men killed in the service should likewise have similar protection, and

WHEREAS, the Protective Fund of the Brotherhood was accumulated for the purpose of protecting the interests of railroad employes, in their relations with their employers, and

WHEREAS, It appears to be more consistent that any monies needed to finance the operations of the Legal Aid Department should be advanced from the Protective Fund instead of the General Fund,

NOW, THEREFORE BE IT RESOLVED:

First: That we approve of the action of the President in establishing the Legal Aid Department in response to the overwhelming vote of the lodges in favor of the same, and the advancement of the necessary funds from the General Fund to get the department established and functioning,

Second: That the President and the General Secretary [fol. 593] and Treasurer be and they are hereby authorized to continue to advance and disburse necessary monies for the proper and efficient conduct of the Legal Aid Department from the Protective Fund of the Brotherhood, until the monies accruing to the Legal Aid Department from damage claims prosecuted by Regional Counsel are sufficient to make the Legal Aid Department self-sustaining.

Third: That when the monies accruing from the handling of such cases exceeds the amount necessary to maintain the Legal Aid Department the surplus shall be used to reimburse the Protective Fund for monies advanced.

Fourth: That if during the next triennial period sufficient funds to operate the Legal Aid Department shall not be available to finance the operations of that department any deficit in operating expenses shall be charged to and paid from the Protective Fund.

Respectfully submitted,

LAWRENCE LONG (200)

J. W. TACKETT (78)

J. S. HADDOCK (649)

C. E. SISLER (452)

D. O. EVANS (915)

Moved by Spahr (513) and Whittaker (244) that the resolution be adopted.

Steadham (81) requested information which was supplied by President Whitney. Smith (325) requested certain information. Hunt (235), Gerrald (697) and Meadows (232) spoke in favor of the resolution.

The following communication was read by Meadows (232) in support of his discussion:

Hinton, W. Va., May 18, 1931.

Mr. R. L. Meadows,

Brotherhood of Railroad Trainmen,

Dear Sir:

I am taking this means of trying to thank you and the Brotherhood of Railroad Trainmen, and especially the Legal Aid Bureau in regard to the death of my husband, who was a member of Lodge 232, and met with a fatal accident last October 30, 1930, while employed as a brakeman on the C. & O. Railroad.

A short time after the death of my husband the claim agent came to my house and finally offered me \$1,000 in settlement for the death of my husband, and said that the company was in no way to blame—that it was all my husband's fault. So I waited a while for the claim agent to come back again, but he did not come back. I then got

in touch with the Legal Aid Bureau and they investigated [fol. 594] my case, and explained the merits of the case to me. So I then turned my case over to the Bureau to handle as the claim agent never did come back.

I was notified that the Legal Aid Bureau had turned my case over to Newcomb, Newcomb and Nord, and they did a good job of it.

I want to say I am well pleased with the verdict they got for me, which was \$12,500, against the \$1,000 the company formerly offered me.

Again, thanking you all, I am

Sincerely yours,

MRS. EMMA V. WOOD

[fol. 595]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 16

PRESIDENT'S ANNUAL REPORT OF 1931

LEGAL AID DEPARTMENT

My 1930 report, pages AAA-262 to 268, carried the details leading up to the institution of this department, and pages AAA 553 to 591 gave a summary of the work handled May 1, 1930, to December 31, 1930. It was stated that the General Secretary and Treasurer and myself had, from time to time, authorized the expenditure of amounts from the General Fund of the Brotherhood to enable the department to carry on its work, and that the department was indebted to the General Fund in the sum of \$13,397.64 as of January 31, 1931.

As will be noted from the following resolution adopted by our Sixth Triennial Convention, the convention approved of the establishment of the Legal Aid Department, as well as the expenditure of funds made, and authorized

its continued operation, with advancement of any moneys needed in the future from the Protective Fund rather than from the General Fund:

Whereas, As a result of the affirmative vote of more than two-thirds of the subordinate lodges of the Brotherhood, in the United States, the Legal Aid Department was established, and has been operating since May 1, 1930; and

Whereas, In order to establish said department, and to finance its early operations, it was necessary that funds for such purpose be provided, and

Whereas, The President and the General Secretary and Treasurer advanced certain sums from the General Fund of the Brotherhood for that purpose; and

Whereas, The Committee on Grand Lodge Officers reports in passing upon the action of the President and the General Secretary and Treasurer; in advancing said funds made the following statement: "We approve this part of the President's report, but we feel that if any further funds are to be advanced to maintain the Bureau the convention should pass on this question"; and

Whereas, The establishment of the Legal Aid Department has already proven a boon to many of the crippled members of the Brotherhood, and the dependent widows and orphans of those killed in the performance of their duties; and

Whereas, The men engaged in the several classes of railroad employment represented by the Brotherhood are working in one of the most hazardous of occupations, and should have some proper means by which those seriously injured in service may procure reliable advice and assistance to enable them to procure just and reasonable compensation from their employers, and the dependents of men killed in the service should likewise have similar protection; and

Whereas, The Protective Fund of the Brotherhood was accumulated for the purpose of protecting the

interests of railroad employes, in their relations with their employers; and

Whereas, It appears to be more consistent that any moneys needed to finance the operations of the Legal Aid Department should be advanced from the Protective Fund instead of the General Fund; now, therefore, be it

Resolved:

First: That we approve of the action of the President in establishing the Legal Aid Department in response to the overwhelming vote of the lodges in favor of the same, and the advancement of the necessary funds from the General Fund to get the department established and functioning.

[fol. 596] Second: That the President and the General Secretary and Treasurer be and they are hereby authorized to continue to advance and disburse necessary moneys for the proper and efficient conduct of the Legal Aid Department from the Protective Fund of the Brotherhood, until the moneys accruing to the Legal Aid Department from damage claims prosecuted by Regional Counsel are sufficient to make the Legal Aid Department self-sustaining.

Third: That when the moneys accruing from the handling of such cases exceeds the amount necessary to maintain the Legal Aid Department the surplus shall be used to reimburse the Protective Fund for moneys advanced.

Fourth: That if during the next triennial period sufficient funds to operate the Legal Aid Department shall not be available to finance the operations of that department any deficit in operating expenses shall be charged to and paid from the Protective Fund.

Brother Tom J. McGrath, General Counsel of the Brotherhood, continued to supervise the department up to December 1, 1931, when Brother E. L. Harrigan, member of Lodge No. 102, was commissioned Deputy President and

placed in charge. Our records indicate that the total expense incident to the operation of the department during the year 1931 was \$40,924.68, while receipts from settlements of claims were \$17,559.04, making a net expenditure from the Protective Fund for the year of \$23,365.64.

The total expense since the inception of the department May 1, 1930, to the close of the year 1931 was \$57,133.22, while the total receipts from settlements of claims were \$23,004.84, leaving a total indebtedness to the Protective Fund as of December 31, 1931, of \$34,128.38. It was estimated that the possible fees in cases then pending approximated \$43,850.00, in addition to which there was held temporarily in escrow \$6,257.50 in fees already earned by the department.

Below is a summary of the work handled by the department during the year 1931, as per report submitted by Brother E. L. Harrigan:

The following are the names and addresses of regional counsel that were appointed in 1930:

Jos. D. Ryan, Suite No. 2007, 100 North LaSalle St., Chicago, Ill.

Thomas C. O'Brien, 11 Beacon Street, Boston, Mass.

Thomas J. O'Neill, 40th Floor, Chrysler Building, 42nd Street and Lexington Avenue, New York City, N. Y.

Searl & McElroy, 20th Floor, State Tower Building, Syracuse, N. Y.

Davis, Michel, Yaeger & McGinley, 419 Metropolitan Bank Building, Minneapolis, Minn.

Newcomb, Newcomb & Nord, 1528 Standard Bank Building, Cleveland, Ohio.

Charles Murphy, 411-412 Union National Bank Building, Houston, Texas.

Frank C. Hanley, Yeon Building, Portland, Oregon.

Foristel, Mudd, Blair & Habenicht, Title Guaranty Building, St. Louis, Mo.

Walsh & Aylward, 12th Floor, Commerce Building, Kansas City, Mo.

Isaac Lobe Straus, 1316 Munsey Building, Baltimore, Md.

The following appointments of regional counsel were made in 1931, on the dates indicated:

London, Yancey & Brower, 529-538 First National Bank Building, Birmingham, Ala., appointed January 13, 1931, [fol. 597] Branch & Howard, 839 Hurt Building, Atlanta, Ga., appointed January 6, 1931.

M. Mitchell Bourquin, Hunter-Dulin Building, San Francisco, Calif., appointed February 12, 1931.

Frank C. Myers, University Building, Denver, Colo., appointed February 11, 1931.

A. G. Morrison & Sons, 517 Ramsey Tower, Oklahoma City, Okla., appointed July 13, 1931.

The resignation of regional counsel, Isaac Lobe Straus was received and accepted on October 9, 1931. His successor has not as yet been appointed.

Two additional full-time investigators have been appointed to serve in the Chicago and San Francisco territories, and one part-time investigator has been appointed to serve the territory of San Angelo, Texas.

[fol. 598]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 17(a)

JOURNAL ENTRY OF THE COURT OF APPEALS OF
CUYAHOGA COUNTY, OHIO, OF JUNE 7, 1933

Wednesday Morning, June 7, 1933

12649

In Re: The Petition of the Committee on Rule 28
of the Cleveland Bar Association, Thomas B.
Bolton, et al.

Court convened pursuant to adjournment with the Judges
all present.

Appeal by Newcomb, Newcomb & Nord

This cause was heard on appeal upon the petition, the original journal entry authorizing and directing an investigation as to alleged unethical practices of lawyers practicing in and before the Court of Cleveland, and upon the motion and order directed to the respondent law firm of Newcomb, Newcomb & Nord, "to appear and show cause, if any it has, why it or any of its members should not be:

(1) Enjoined from acting as regional counsel for the Legal Aid Department of The Brotherhood of Railroad Trainmen in representing claims and cases of its members.

(2) Enjoined from prosecuting further or otherwise handling those claims and cases now represented by them which arose out of accidents to members of The Brotherhood of Railroad Trainmen and which claims and cases originated with and were procured by and through the Legal Aid Department of The Brotherhood of Railroad Trainmen.

(3) Enjoined from hereafter accepting and/or handling and prosecuting claims and cases on behalf of the members of said Brotherhood originating with or solicited or procured through the Legal Aid Department of The Brother-

hood of Railroad Trainmen, and referred to said law firm by said Legal Aid Department.

(4) Subjected to such further orders or remedies as the evidence warrants."

and upon the evidence and stipulation presented in the record and transcript from the Common Pleas Court, and other evidence; the issues thereon and ther from relating to alleged unprofessional conduct of respondent law firm arising from its relationship with the Legal Aid Department of The Brotherhood of Railroad Trainmen, a union and brotherhood of men engaged in train service of railroads in the United States.

The Court finds that the Legal Aid Department is a branch, or bureau, of said Brotherhood of Railroad Trainmen, and that the respondent firm, Newcomb, Newcomb & Nord, is one of the regional counsel for and an integral part of said Legal Aid Department under a plan which is nation wide in scope.

The Court further finds that the purposes and objects of said plan of the Legal Aid Department, with the knowledge and assent of respondent firm are: to keep itself informed as to injuries to and death of members of The Brotherhood of Railroad Trainmen arising out of and caused in the course of their employment; to contact those members thus injured, or the next of kin of these members thus killed; to tender its services, consisting of investigation of the facts of accidents in which such members are injured or killed and the procurement of legal advice from regional counsel for such members, or their next of kin or their personal representative; and if lawsuits for such members become desirable, to procure the cases for its regional counsel.

The plan further provides for a charge to the member or his next of kin or personal representative, of twenty per cent of the amount of recovery of the claims obtained for regional counsel, fifteen per cent of which is paid to regional counsel and five per cent of which is paid to the [fol. 599] Legal Aid Department, the soliciting agent, by and through its regional counsel. This payment of five per cent is provided for in the contract of retainer entered into between Newcomb, Newcomb & Nord, as regional coun-

sel, and the member or his next of kin or personal representative. The form and substance of this retainer contract is specified by the Legal Aid Department.

The Court also finds that this arrangement and plan results in the solicitation of professional business for and by Newcomb, Newcomb and Nord, regional counsel, contrary to and in violation of the Canons of Legal Ethics of The American Bar Association and of Rule XXVIII of the Rules of the Supreme Court of Ohio.

The Court further finds that respondent firm, Newcomb, Newcomb & Nord, in their association and affiliation with the Legal Aid Department of The Brotherhood of Railroad Trainmen, has been and is guilty of unprofessional conduct amounting to a breach of the said Canons and of the said Rule.

The Court further finds that the plan, so far as it embraces any connection with or provides for regional counsel, and affects the relations of regional counsel with, for and on behalf of the members of The Brotherhood of Railroad Trainmen, through said Legal Aid Department, should be denounced; and that the law firm of Newcomb, Newcomb & Nord are subject to discipline by way of either reprimand, suspension or disbarment, as provided for in Section 1707 of the General Code of Ohio and Rule XXVIII of the Rules of the Supreme Court of Ohio, and within the inherent power of this Court to administer.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the aforesaid plan be, and it is hereby denounced; and that the law firm of Newcomb, Newcomb & Nord, and its members, be, and are hereby reprimanded for entering into and continuing such arrangement with said Legal Aid Department of The Brotherhood of Railroad Trainmen.

It is Further ordered that the law firm of Newcomb, Newcomb & Nord pay the costs of this proceeding, to all of which the respondent law firm excepts.

12649

In Re: The Petition of the Committee on Rule 28
of the Cleveland Bar Association, Thomas B.
Bolton, et al.

Appeal by Newcomb, Newcomb & Nord.

The respondent law firm having filed its motion for a new trial within three days after the decision of the Court was announced, and having refiled said motion within three days after the judgment of the Court in this cause was duly entered upon its journal, the said motion for a new trial is by the Court overruled, to which the respondent law firm excepts.

Court of Appeals Journal 9, page 669 and 670

June 7, 1933

WHEREUPON Court convened and adjourned from day to day until June 8, 1933.

[fol. 600]

CERTIFICATE TO COMMON PLEAS RECORD AND
COURT OF APPEALS

THE STATE OF OHIO,
CUYAHOGA COUNTY, ss.:

I, Emil J. Masgay, Clerk of the Court of Common Pleas and Court of Appeals, within and for said County, and in whose custody the Files, Journals and Records of said Court are required by the Laws of the State of Ohio to be kept, hereby certify that the foregoing copy is taken and copied from the records in Court of Appeals Journal 9 page 669 and 670, dated June 7, 1933 of the Proceedings of the Court of Appeals within and for said Cuyahoga County, and that said foregoing copy has been compared

by me, with the original record Journal 9, page 669 and 670 and that the same is a correct transcript thereof.

(Seal) IN TESTIMONY WHEREOF, I do hereby subscribe my name officially and affix the seal of said Court at the Court House in the City of Cleveland, in said County, this 22nd day of September A.D. 1961

/s/ EMIL J. MASGAY
Emil J. Masgay—Clerk

I, Julius M. Kovachy, Presiding Judge of the Court of Appeals within and for the Eighth Judicial District of the State of Ohio, in which District is said County of Cuyahoga, do hereby certify, that Emil J. Masgay was at the date of the above certificate, and now is, Clerk of said Court of Common Pleas and Court of Appeals, within and for said Cuyahoga County, and State of Ohio, and that said Clerk is the officer in whose custody said original record in Journal 9, page 669 and 670 is required to be kept by the Laws of the State of Ohio, and authorized by the Laws of the State of Ohio, to certify as aforesaid, and that said attestation to said copy of said record is in due form of Law.

Signed by me and dated at Cleveland, Cuyahoga County, Ohio, this Twenty-second day of September A.D. 1961.

/s/ JULIUS M. KOVACHY
Presiding Judge,
as aforesaid

I, Emil J. Masgay, Clerk of the Court of Common Pleas and Court of Appeals, Court of Record of Cuyahoga County, do hereby certify that Julius M. Kovachy was at the date of the foregoing certificate the duly elected, qualified and acting Presiding Judge of the Court of Appeals of Cuyahoga County, Ohio.

(Seal) IN TESTIMONY WHEREOF, I hereunto subscribe my name and affix the seal of said Court, at Cleveland, this Twenty-second day of September A.D. 1961.

/s/ EMIL J. MASGAY
Emil J. Masgay, Clerk

[fol. 601]

PLAINTIFF'S EXHIBIT 17(b)

IN THE COURT OF APPEALS OF CUYAHOGA COUNTY,
STATE OF OHIO, EIGHTH DISTRICT

No. 12,649

3 Motion to Enjoin

In Re: Petition of the Committee on Rule 28 of
the Cleveland Bar Association, etc., et al.

Opinion—May 8, 1933

ON APPEAL

(Mauck, J., of the Fourth District, Sitting by Designation
with Lieghley, P.J. and Levine, J., of the Eighth Appel-
late District.)

MAUCK, J.

[fol. 602] "The results of this plan are these: The Legal
Aid Department by publication in the Brotherhood Journal,
by circularizing the locals, by personal representations and
by about all the methods known, is constantly soliciting
legal business for the respondent firm. That firm in turn,
knowing exactly how its business is being solicited for it
impliedly assents to such solicitation and because it ex-
pects to get a large volume of business fixes an iron-clad
fifteen percent contingent fee, plus a further five percent
charge to be collected by it and paid over to the soliciting
agency. . . .

[fol. 603]

PLAINTIFF'S EXHIBIT 17(c)

EXCERPTS FROM RESPONDENTS' BILL OF EXCEPTIONS

VOLUME I.

IN THE COURT OF COMMON PLEAS

No. 360395

**In Re: The Petition of the Committee on Rule 28 of the
Cleveland Bar Association, Thomas B. Bolton, et al.**

• • • • • • •

[fol. 604]

MONDAY, JANUARY 4, 1932; 1:15 P. M.

RESPONDENTS' CASE

Whereupon the Respondents, further to maintain the issues on their parts to be maintained, called as a witness **ALEXANDER F. WHITNEY**, who, being first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Day:

Q. Your name, please?

A. Alexander F. Whitney, President of the Brotherhood of Railroad Trainmen.

• • • • • • •

[fol. 605] **Q. Mr. Whitney, as an officer of the Brotherhood, have you personally kept in touch with the various steps that have been taken to organize this Legal Aid Bureau?**

A. I have as to its general purposes and policies.

Q. And is that true from the time that the organization [fol. 606] was first suggested until the present time?

A. That is true.

Q. When was the subject of organizing a Legal Aid Department first broached by the Brotherhood or to the Brotherhood or among the members of the Brotherhood—approximately when?

A. In 1906 our National Legislative Representative at that time, Mr. H. R. Fuller also represented the Brotherhood of Locomotive Engineers, the Order of Railway Conductors, the Brotherhood of Locomotive Firemen and Enginemen, and the Brotherhood of Railroad Trainmen at Washington, D.C., and he was instrumental in bringing about the enactment of the Employers' Liability Law, assisted by these organizations, in 1906, and it was declared unconstitutional by the Courts, and the bill was reintroduced and became a law in 1908. About that time Mr. Fuller took quite an interest in the theory that the organization should institute a Legal Aid Department for all of their members in railroad service; and all of the organizations went along with us perhaps except the Order of Railway Conductors. On account of their objection the scheme did not materialize. The next record we have, and with which I am familiar was at our convention in Detroit in 1916, where a resolution was adopted that steps should be taken to set up a Bureau, and that was then followed by similar action in 1919 and again in 1922, and at that time the general committees of our organization were authorized and instructed to attempt to enter into agreements with the railways permitting engine members to be represented by representatives of the Brotherhood. No action was taken with this that was constructive at that time.

Q. In 1922 what body of the Brotherhood took that action or made that recommendation?

A. Our International Convention.

Q. That Convention is held how frequently?

A. Each three years.

Q. Each three years?

A. Yes, sir.

Q. And in 1919 you spoke about some suggested action. Was that also at a national convention?

A. Yes, sir; and the same is true in 1916. In 1925 our convention took similar action, and again in 1928 our convention adopted a resolution dealing with the matter, but it was difficult to carry out the wish of the membership.

[fol. 608] A. And when we decided to organize the Bureau, or before we decided to organize the Bureau; the matter was called to my attention by our State Legislative [fol. 609] Representatives who held a conference in Washington in May, 1929. They unanimously adopted a resolution urging me to take steps to institute a Legal Aid Department.

Q. That is, the Legislative Representatives of the Brotherhood?

A. Of the Brotherhood, representing 42 states in the Union. I gave that matter consideration and listed it for discussion at a meeting of the International Association of the Brotherhood of Railroad Trainmen held in Montreal, October 5th to 9th, 1929. We assigned men on the affirmative and on the negative, to discuss the advisability of instituting a Legal Aid Bureau. This International Association is made up of key men. They are the officers of our organization and chairmen of our Grievance Committees. There was about 115 representatives at that meeting, and after a debate lasting several hours, the International Association, by almost unanimous vote, approved of the scheme and requested me to take the matter up with the lodges or with the coming convention, and undertake to institute a Legal Aid Department.

[fol. 610] And so we submitted a proposition to our membership in January, 1929—in 1930, and we asked our lodges to give the matter consideration and to determine whether or not a Legal Aid Department should be established.

Q. By what method was that done?

A. That was done through circular letter. We set out all of the facts, stating to the lodges the action of the legislative conference, the action of the conference in Montreal, the action of our Board of Directors in January, 1930, approving of the plan; and we asked them for their authority to institute the department, and by a vote of eleven to one, the lodges voted in favor of the plan, and on May 1, 1930, the Department was set up.

[fol. 611] Q. Did you receive from Mr. McGrath a report [fol. 612] or survey relative to the West Virginia situation?

A. I did.

[fol. 613] Q. Now, Mr. Whitney, were there any other actions taken by the Brotherhood prior to the establishing of the Bureau on May 1, 1930?

A. None other than I have stated. I have called attention to the several actions taken.

Q. Yes, sir.

A. Including the vote of the lodges, the action of the Board of Directors, the International Association and Legislative Conference, Mr. McGrath's investigation of conditions in West Virginia, and our discussions on the matter. Of course, we put in considerable time analyzing the report, and we discussed the advisability of instituting a Legal Aid Department with our various officers, recognizing that it was a somewhat new departure, and [fol. 614] that every Christian and humanitarian movement that has ever been instituted has usually met with opposition. Following the institution of the department, we then set out to select regional counsel.

Q. I wish you would tell the Court just what was done with relation to selecting regional counsel. In the first place, how many regional counsel are there?

A. Fifteen at this time. We have four in the east, one in Cleveland, one firm in Rochester, one in Boston and one in New York City. We have regional counsel in the south at Birmingham, Atlanta and Houston, and in the west at Chicago, Minneapolis, Kansas City, St. Louis, Oklahoma City, San Francisco, Portland and Denver.

Q. What is the territory comprised within the regional counsel's district here?

A. Roughly speaking, it is Ohio, West Virginia, the western section of Pennsylvania, a portion of Indiana, and I don't know whether a part of New York comes into this zone or not.

Q. Will you tell the Court just how you went about selecting regional counsel? Tell us what was done.

A. I discussed this matter with Attorney McGrath, and I told him that I felt we should have reputable attorneys or firms of attorneys who had had experience in this line of [fol. 615] work, and who had a standing in their community, and men that are willing to do the job, not for the fifty percent of the net settlement, but for what we thought was a reasonable fee of about twenty percent. I said to him, "I want you to look around and make a survey in the various cities where you feel that regional counsel should be employed, confer with the Bar Associations, with the judges, the Courts in those cities, with our membership, and, if the opportunity affords, with citizens of high standing who are familiar with these people, and after you have determined in your own mind who should be appointed a representative, you may then drop in and we will discuss the matter further and undertake to agree upon the appointments. The first appointment that was made was Davis, Michael, Yaeger and McGinley, of Minneapolis. It did not take so long to make that appointment because I had worked in that territory for a great many years, and McGrath had lived in St. Paul, and we both knew the firm and knew a whole lot about their standing. The second appointment that was made was Newcomb, Newcomb and Nord of Cleveland. When Mr. McGrath made his investigation and recommended this firm to me, I held the appointment up for some [fol. 616] days because I had never met but one member of that firm.

Q. Which member was that?

A. Judge Newcomb.

Q. In what connection did you meet him?

A. He addressed our convention in 1925 and was introduced as "Judge Newcomb" and at that time, and for some time thereafter I thought he was a judge of one of the Courts here. I did not know that he was practicing, but some time before the Legal Aid Bureau was instituted, I learned that he was a practicing attorney. I, as I say, held up the appointment for a few days, and I discussed with one or two prominent attorneys here in the City the advisability of appointing Newcomb, Newcomb and Nord, and asked several questions regarding their standing. I had been told that one member of the firm was a doctor, that Judge Newcomb was a member of the Engineers Brotherhood, that he represented the Engineers Brotherhood. I believe I discussed his standing with Mr. Johnson.

Q. Who is Mr. Johnson?

A. President of the Engineers Brotherhood. I was told that Newcomb, Newcomb and Nord was a firm that turned down or refused to handle many personal injury cases; that it was their policy in many instances to advise the injured member to return to his home and undertake to get [fol. 617] well, to try to get back to work and preserve his seniority. That very strongly appealed to me because I recognize the value of a job, and I recognize that it is far better for an injured railroad man to get well and go back to his job and be able to earn a living for himself and his family than it is to make a settlement and lose his job and perhaps be a burden upon society later on. So I told McGrath to go ahead and make the appointment. I believe the third appointment that was made was Attorney O'Neil of New York.

Q. I don't care about the names of them.

A. And then I put—

Q. Prior to the time that the appointment was made of Newcomb, Newcomb and Nord, did you know R. B. Newcomb at all?

A. I don't recall that I ever met the man.

Q. Did you know Mr. Nord?

A. I did not. I may have met him, but I would not have known him.

Q. Do you know whether the names of other law firms had been considered by Mr. McGrath here in Cleveland?

A. I believe that he considered the firm of Day and Day.

Q. Yes?

A. I think that he considered four or five other firms here in the City, but in his recommendation, he recom-[fol. 618] mended Newcomb, Newcomb and Nord.

[fol. 619] Q. Go ahead, Mr. Whitney.

A. Our instructions were that our injured members should make every honorable effort to secure just settlements without even going to the lawyers. Some of them are assisted by their committeemen. Our instructions were that the employment or even going to an attorney should be a thing of last resort, that if they could not secure substantial justice from the railroad, then, of course, they would be compelled to secure the advice of lawyers. We told them through the columns of the Journal, our monthly magazine, that the Bureau had been instituted for their benefit, and we gave the membership all of the information that was possible through the columns of the Journal, and directed our officers and other representatives to bring the matter up in lodge meetings, and explain to them that the Brotherhood had taken an advanced and pro-[fol. 620] gressive step by instituting the Legal Aid Department, and that it was their department, and that it was organized for their protection; and that they had a perfect right to take advantage of it. In doing this we did not say a word in derogation of any lawyer or any firm of lawyers. We merely instituted the Bureau, as I have said, for the protection of our members, and for that reason only.

[fol. 621] Q. You didn't get the viewpoint, then, of lawyers about an arrangement like this, did you?

A. No. We didn't want it.

Q. In other words, you set up this department having in mind your own particular viewpoint; isn't that right?

A. Well, we had the viewpoint of our own lawyers, and we had our own viewpoint.

Q. When you say the viewpoint of your own lawyers, who were they?

A. Mr. T. J. McGrath is our general counsel.

Q. He is counsel for the Brotherhood of Railroad Trainmen isn't he?

A. Yes, sir.

[fol. 622]

TUESDAY, JANUARY 5, 1932; 9:15 A. M.

Thereupon the Respondents, further to maintain the issues on their parts to be maintained, called as a witness T. J. McGRATH, who, being first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Day:

Q. What is your name?

A. T. J. McGrath.

Q. Mr. McGrath, you have heretofore testified before Judge Carpenter?

A. Yes.

Q. In this general proceeding, have you not?

A. Yes, sir.

Q. What is your connection with the Brotherhood of Railroad Trainmen?

A. I hold the position designated as general counsel, which involves the supervision of all legal matters concerning the Brotherhood affairs.

[fol. 623] Q. As general counsel for the Brotherhood, what personal connection did you have with the establishment of the Legal Aid Department?

A. I probably did the major portion of all of the work in connection with the establishment of the Legal Aid Department.

Q. When did you start in on that work?

A. My first experience with reference to the establishment of a Legal Aid Department came while I was local counsel.

Q. When did you first start in on whatever work you did in connection with the Legal Aid Department that was actually established and began operations May 1, 1930?

A. I should say it was some time around the first of the year 1929.

Q. At whose request did you take that work up?

A. Why, originally I took it up on my own initiative.

Q. Did you discuss it with President Whitney?

A. I did after a time.

Q. When?

A. Along in, oh, about March, around the 1st of March, [fol. 624] 1929.

[fol. 625] Q. Something was asked Mr. Whitney yesterday by Mr. Fulton along the general line that the regional counsel who were selected were those who had been engaged in ambulance chasing before they were selected. Is that a fact?

A. That is not a fact, generally speaking. We have men, wherever we have been able to secure them, who are experienced in the trial of damage suit cases. Now, you can differentiate between ambulance chasers. I don't think a great deal of odium attaches to ambulance chasing where the fellow handles his clients with decency and treats other lawyers on a fair plane when he solicits business. I consider it is unethical, but I mean from a purely moral standpoint. We sought to select men who may have used certain means to induce clients to come in there, but who would stand the scrutiny of any fairminded man as to whether their practices were reasonably decent.

[fol. 626] Q. All right. When you revived this dormant plan about the Legal Aid Department, or, to put it another way, when you started to think it over again, in connection with that did you take into account and consider the canons of legal ethics and professional ethics generally?

A. I made no study of the canons of legal ethics.

[fol. 627] Q. Did you make contracts with regional counsel other than disclosed by the instructions that were forwarded to them and initialed by them?

A. Just in the form of a letter confirming my verbal discussion with them, and telling them that we had, after due consideration, selected them as regional counsel, and enclosing the letters and asking them to subscribe to them and return them.

[fol. 628] TOM J. McGRATH, being first duly sworn, was examined and testified as follows:

Examination.

By Mr. Fulton:

[fol. 629] Q. Does the membership fee and dues which a member of the Brotherhood pays annually entitle him to [fol. 630] membership in, if I may use that expression, and benefits from the Legal Aid Department?

A. Of course—

[fol. 631] Q. When a man is injured, the legal aid department communicates with him, doesn't it?

A. Yes, sir. That is, if it is a major injury, a serious injury.

[fol. 632] Q. All right. Having examined the report (Plaintiff's Exhibit 6), what do you then do?

[fol. 633] A. Generally we write to the injured man and tell him that his case has been reported to us, and call his attention perhaps, and usually, to the establishment of the Bureau and the purpose for which it was organized, and tell him that if he desires us to advise him as to his rights, and what we think that his damages should be, or what would be a fair settlement, we ask him to fill out this blank and send it in together with any doctors' reports, depending upon the character of the injury. If it is a hand or a

foot or an arm off, we have no trouble about that. If it is a back injury, we probably would have to know about the seriousness and the extent of the injury, and we have suggested on a number of occasions that they come to Cleveland and be examined by a doctor, if they care to.

Q. That is, after the receipt of this—

A. Original notice; yes, sir.

Q. —original notice from the subordinate lodge?

A. Yes, sir.

Q. And that is before you receive a notice from the injured man?

A. It may be before and it may be afterward, depending upon the kind of a case it is.

[fol. 634] Q. Upon receipt of that report what do you then do, Mr. McGrath?

A. We write the claimant, if the report is comprehensive enough to come to some definite conclusion as to the person's rights, we write them and suggest the course that they pursue with the claim department, what they should ask for, and if it happens to be a death case, we take the wages and analyze the expectancy and the earning power and that sort of thing and tell them what we think they ought to have. I qualify that by saying that we have not been doing that in Ohio since this lawsuit was started by the Cuyahoga Bar Association, but we have elsewhere.

Q. That action is an action asserting that you are engaged in the practice of law?

A. Yes, sir.

Q. But from the time that your organization came into being until the commencement of that action, those are the things which you did?

A. Substantially, yes. Of course, that—

Q. In other words, you would decide first whether there was liability under the Federal Liability Act upon the facts of the accident?

A. Of course, that may entail more or less correspondence before we reach that point, you understand, but eventually we do that.

Q. That correspondence would be between you and the claimant?

A. Yes.

[fol. 636] Q. Or between you and the investigator, possibly?

A. Yes; or it might mean calling in a witness to the office, a member of the Brotherhood who knows about it.

Q. In order to get all of the facts and be certain about the facts?

A. In order to be convinced in our own minds that we are right and on safe ground in giving an opinion.

Q. Now, once having decided that there was not liability what advice would you give the injured man?

A. Well, we would tell him to try and settle his case as best he can, and especially if he can go to work and preserve his seniority. We would find out what he had been offered, and sometimes we do say, "Well, we are satisfied that if you will just handle it in such and such a way, the claim department will probably raise it a thousand or two, but if you can't get any more, you better take what you are offered."

Q. In other words, in the case of non-liability, then, you would give some idea to the man of what he ought to get in a settlement and keep his job?

A. Yes, sir.

Q. All right. Do you still do that?

A. Yes, sir.

Q. Let's assume you determine the case is one of liability, what then do you do?

A. Well, we tell him what we think his case ought to be [fol. 637] worth, what he ought to get in the way of a settlement. We do the same thing to the grievance men, too, if they write in on behalf of a man and want to know about a case and the value.

[fol. 638] Q. Now, occasionally you will get a case from the investigator and you will determine that there is liability?

A. Yes, sir.

Q. And the injuries are not serious. Do you then advise the man to settle direct and keep his job?

A. Always.

Q. Are you still doing that?

A. Yes, sir.

Q. Then, if you have a case that you determine to be a liability case and the injuries are serious, you then advise an amount that that case is worth in your opinion?

A. Yes, sir.

Q. And you so advise the man?

A. Yes, sir.

Q. You still do that?

A. Yes, sir; with the exception of the State of Ohio. I don't know why we should not, only we just decided that we would not while this was pending.

Q. Well, having decided the amount, you advise the man if he can get that amount or within the range of that amount, to take it and preserve his seniority rights?

A. We always do that when a man has any seniority rights that are at all worth while. We tell him to settle it up the best he can get and not jeopardize his job, because it not only means his job on that railroad, but he is virtually [fol. 639] blacklisted on every other railroad. So we always do that when they can go back and work.

Q. If the man, of course, does not get the amount that you think the case is worth, he is then sent to your regional counsel?

A. No; not necessarily. In fact—

Q. Where does he go?

A. I don't know that he is ever sent to a regional counsel.

Q. Did you ever take any injured claimant to your regional counsel in this locality?

A. I never did; no, sir.

Q. Did you ever have any of the regional counsel or members of the firm that are regional counsel come over and talk to some man in your office?

A. Yes, sir.

Q. You have done that, haven't you?

A. Yes, sir; we have done that quite frequently. I don't want you to get the wrong impression from that other ques-

tion. I personally haven't taken anybody to Newcomb, Newcomb and Nord's office. I have sent Mr. Harrington over with men.

Q. Oh, you have sent Mr. Harrington over?

A. Yes, sir.

Q. Did you ever send Mr. Hawley over?

A. No; I don't think I have.

Q. Newcomb, Newcomb and Nord are regional counsel?

[fol. 640] A. Yes, sir.

Q. For this legal department?

A. In this territory.

Q. For this territory?

A. Yes.

Q. And that region covers what?

A. The State of Ohio, the western part of Pennsylvania to a line drawn north and south, say about through Altoona, Pennsylvania; the State of West Virginia, the northern part of Kentucky and over about as far as Indianapolis in Indiana. Now, I say that for the purpose of clarity and convenience, although we don't assign any certain geographical area to lawyers. We assign certain lodges on certain railroads to certain regional counsel, and then, of course, we say to our men that it is optional—in all our literature we say that it is optional with them to choose any regional counsel they see fit.

Q. In other words, they may choose any among the various regional counsel?

A. Any counsel who cares to handle their case and who can get jurisdiction over the railroad.

[fol. 641] Q. Do you still in Ohio since that suit was filed advise an injured man whether he has a case of liability?

A. No, sir.

Q. Who does that now?

A. Newcomb, Newcomb and Nord.

Q. That is submitted to Newcomb, Newcomb and Nord?

A. Yes, sir.

Q. In connection with the particular case?

A. Yes, sir.

Q. Do you still advise the man, if it is not a case of lia-

bility that he should go back to his work and settle direct with the railroad?

A. Oh, I have done that.

[fol. 642] Q. What arrangement does the legal aid department have with regional counsel regarding the compensation to be received by regional counsel for handling injury and death claims?

A. We have an agreement with them that they will charge the injured man 20% if he signs a contract with them. If he does not, they make no charge for their services—merely for advice, and of this 20%—

Q. For such advice whom do they charge?

A. They don't charge anybody.

Q. Do they charge the Brotherhood?

A. No.

Q. Do they charge the legal aid department?

A. No, sir.

Q. But if they take the case—

A. They take it on a 20% contingent fee basis.

Q. A 20% contingent fee basis?

A. Yes, sir.

Q. And when the case is settled, the regional counsel gets 20% of the recovery and the injured man 80%?

A. Yes, sir.

Q. And then what does the regional counsel do with the 20%?

[fol. 643] A. The regional counsel sends us 5%, that is, 5% of the net amount recovered, except, I think, in one or two cases where they sent us 6%.

Q. In other words, there are certain classes of cases you get 6% and not 5%?

A. No. There are certain sections of the country where our contract is just a little more advantageous from our standpoint.

Q. In other words, the regional counsel then remits or refunds or pays over to the legal aid department five or six percent of the recovery?

A. Well, that's another thing, of course, that we are not doing in Ohio right now.

Q. But that is your plan?

A. That is our plan; yes, sir.

Q. It is not 5% of the fee?

A. No, sir.

Q. 5% of the recovery?

A. Of the net amount recovered. The expenses are deducted first, the witness fees and such things.

Q. In other words, the lawyer turns back to the legal aid department one-fourth of his fee?

A. Yes, sir. You call it his fee. We don't determine his fee exactly. Our men know ahead of time that a certain portion of that goes to the Legal Aid Bureau.

[fol. 644] Q. It is by arrangement with these counsel that the claimant gets a 20% contract with the lawyer?

A. That's right.

Q. And it is by arrangement between the regional counsel and the legal aid department that you get 5% of the recovery?

A. Yes, sir.

Q. When I say "you" I mean the legal aid department?

A. The Brotherhood gets it. What I want to say was that the member knows, the claimant knows that 5% of that goes to the Brotherhood before it is deducted. He knows that that is to maintain the legal aid department. He knows that when his contract is signed. In fact, I think so far as Newcomb, Newcomb and Nord are concerned, they have a contract now that contains an assignment of 5% to the Brotherhood to maintain the Bureau.

Q. Let's get back to the original practice. You started this Bureau in operation in Ohio and in this region that you have described to us in 1930?

A. Yes.

Q. And since that time Newcomb-Newcomb and Nord have gotten cases from and through the legal aid department?

A. Yes, sir.

Q. And at the out-set the arrangement was just as you described it here a moment ago?

A. Right.

[fol. 645] Q. And on cases that Newcomb, Newcomb and Nord settled or obtained money in payment in discharge of judgments; Newcomb, Newcomb and Nord collected 20% regularly and then paid over to the department 5%!

A. When they were doing that, yes.

Q. When did they stop doing that?

A. Well, right after the lawsuit was started. That was in April.

Q. April of 1931?

A. 1931.

[fol. 646] Q. But up to that time they did turn back and pay over to you the 5%?

A. Yes, sir.

Q. What kind of contracts do they take now from members of the Brotherhood on cases that come to them through the department?

A. Well, I recall having had submitted to me a form of contract that they intended to use in Brotherhood cases. Now, perhaps I had better get that.

Q. Do you have that form with you?

A. No; I haven't, but it attempted to differentiate between what the Brotherhood was to get and the lawyer. The lawyer was to get 15% and we were to get 5%, and the man signed that as signing and authorizing the attorney to pay us the 5%.

[fol. 647] Q. In other words, the old contract was a straight contract between the injured man and Newcomb, Newcomb and Nord or between the administrator and Newcomb, Newcomb and Nord for 20%?

A. That's right.

Q. And then under and by virtue of this separate agreement Newcomb, Newcomb and Nord would pay back 5% of the recovery?

A. That's it.

Q. Now, under this new plan how much percent is allowed to Newcomb, Newcomb and Nord in the contract?

A. 15%.

Q. And that, as you recall it, specifically says that Newcomb, Newcomb and Nord will get 15%?

A. Yes, sir.

Q. And then the injured man assigns to the Brotherhood a 5% interest?

A. That's right.

Q. In other words, that's the method now intended at least to be used?

A. Yes, sir.

[fol. 648] Q. I asked you whether you have any other plan?

[fol. 649] A. Well, eventually if we can't get it that way, we will arrange for an assessment on the members, I suppose, to do it as we are doing now, paying it out of the protective fund.

Q. Isn't this the plan you suggested the other day, and if I am mistaken about it correct me, that the Brotherhood Legal Department will take a contract with the injured man for 5%, and that Newcomb, Newcomb and Nord will have a contract with the injured man for 15?

A. No; I don't think I said that. I never had that in mind. What I had in mind and what I have had in mind is the arrangement that I have just suggested, that is, that there be one contract with the lawyer, but the claimant would assign 5% to the Brotherhood. I had another plan in mind, but the institution of the plan, of course, depends on what [fol. 650] the Court says as to what we may or may not do, and if you want me to answer that question fully I would just as soon tell you what that plan was.

[fol. 651] Q. And it is fact, isn't it, that these men who had experience soliciting cases solicited for the very lawyers whom you now have as regional counsel in most instances?

A. That is true in two cases. By that I mean two lawyers—two sets of lawyers.

Q. And one of them is Newcomb, Newcomb and Nord?

A. Yes, sir.

Q. Who is the other?

A. Davis, Michael, Yeager and McGinley.

[fol. 652] Mr. Morris: But if the men finally get to the point of adopting your plan in your union it will mean that in this region Newcomb, Newcomb and Nord will have a monopoly on those cases?

The Witness: Yes, sir.

Mr. Morris: That's right, isn't it?

The Witness: If they cooperate with us in our plan to carry out our suggestion, cases will not go to any other lawyers or members of our Brotherhood, unless we should broaden our list.

[fol. 653] Q. You are out advertising your own lawyers, Newcomb, Newcomb and Nord?

A. If we think they need lawyers we are boosting Newcomb, Newcomb and Nord, yes, sir. We make no bones about that.

[fol. 654] Examination.

By Mr. Morris:

[fol. 655] Q. Mr. McGrath, now you say that this Cuyahoga County Bar Association case was filed in April?

A. I think so.

Q. And since April you have not been splitting any fees?

A. No. I said that about the time that that case was filed we agreed not to take any of that money, but hold it in abeyance until the thing was settled.

[fol. 656] Q. There is one I would like to call your attention to particularly. I am going to introduce all of them in evidence. The one from the Railroad Trainmen of January, 1931, with the heading "Legal Aid Bureau" this language appears: "It is the experience of the Legal Aid Bureau that before a member of the Brotherhood accepts compensation for personal injuries or signs any paper in connection therewith he should write to the Bureau for

some advice as to his legal rights. That's practicing law, isn't it?

A. I don't know. We claim it isn't. There is a lawsuit pending to determine that.

[fol. 657] Q: All right, sir. Before the Cuyahoga County Bar suit you gave opinions to the injured Brothers on the question of liability?

A. Yes, sir. I do yet in cases arising outside of Ohio and [fol. 658] in the State of Ohio in minor cases, in Ohio.

[fol. 659]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 18

IN THE COURT OF COMMON PLEAS

No. 354,975

April Term 1932

STATE OF OHIO)

) ss

CUYAHOGA COUNTY)

JACK B. DWORKEN

Plaintiff

VS

BROTHERHOOD OF RAILROAD TRAINMEN GRAND LODGE

Defendant

Be it remembered that heretofore, to-wit: At a term of the said Court of Common Pleas begun and held at the Court House, in the City of Cleveland, within and for the County of Cuyahoga, and the State of Ohio, on the Fourth day of April in the year of our Lord, One thousand nine hundred and thirty-two by and before their Honors, to-wit:

Samuel E. Kramer, George B. Harris, Thomas M. Kennedy, Harrison W. Ewing, Alvin J. Pearson, John P. Dempsey, Virgil J. Terrell, George P. Baer, Samuel H. Silbert, Alva R. Corlett, Lee E. Skeel, James B. Ruhl, Frederick P. Walther, Walter McMahon, Homer G. Powell, Judges of the Court of Common Pleas of the Eleventh Judicial District of the State of Ohio and the County of Cuyahoga:

Thomas C. Cook, Clerk of Courts. John M. Sulzmann, Sheriff

[fol. 660]

IN THE COURT OF COMMON PLEAS

No. 354975.

THE STATE OF OHIO)

) ss

CUYAHOGA COUNTY.)

JACK B. DWORKE,

Plaintiff,

—VS—

BROTHERHOOD OF RAILROAD TRAINMEN GRAND LODGE,

Defendant.

JOURNAL ENTRY.

May 4th 1932

This cause came on to be heard upon the pleadings and upon the statements of counsel for the respective parties, from which statements it appears that prior to the filing of the petition herein and until about December 1, 1931, the defendant maintained and operated a Legal Aid Department, with Attorney Tom J. McGrath, its general counsel, in charge of said Department, and that at the request of such members of the defendant, who claimed to be injured in railroad service, or at the request of dependents of such members who were killed in railroad service, the

defendant, through its Legal Aid Department, gave opinions to such members and dependents respecting their legal rights arising out of such injury or death, and in case litigation was required, referred such members or dependents to counsel with whom defendant had an arrangement whereby 5% of the amount recovered in such litigation was assigned by such claimant to the Legal Aid Department of the defendant, to defray in part the cost of maintaining said Department.

From said statements of counsel, it further appears that since December 1, 1931, the defendant has discontinued the former method of operating its Legal Aid Department, and has changed its methods of operation so that neither the defendant nor any of its agents or employees give any legal opinions to any member, nor to dependents of members of the defendant, respecting any alleged legal rights of such member or dependents; but that if a member of [fol. 661] the defendant, claiming to have been injured in the railroad service, or if a dependent of a member killed in the railroad service, requests a legal opinion respecting the rights of such person or persons arising out of such injury or death, such request will be referred to counsel of the choice of such member or dependent, with no responsibility on the part of the defendant for the character of the service rendered by such attorney, and without any division of fees between any attorney and the defendant, or any department of the defendant; and the services of the Legal Aid Department of the defendant, in its investigating of claims, are limited to investigation of facts without advice as to any legal rights, and the reports of such investigations are for the benefit of such member or dependents of members. The above words, "reports of such investigations" are understood by the parties and their counsel, not to mean or include the statements of witnesses received by the Legal Aid Department of the defendant in the course of its investigation.

Upon the representation by counsel for defendant, that said defendant has, in good faith, adopted said new plan

of operation, this action is, by consent of both parties, dismissed at the costs of the defendant.

May 4, 1932.

/s/ LEE E. SKEL
Judge.

Approved by:

/s/ JOSEPH S. STERN AND J. B. DWORKE
Joseph S. Stern and J. B. Dworken,
Attorneys for Plaintiff.

/s/ PERRY A. FREY and
P. A. Frey

/s/ BERNON, MULLIGAN, KEELEY & LE FEVER
Bernon, Mulligan, Keeley & Le Fever,
Attorneys for Defendant.

[fol. 662]

CERTIFICATE TO COMMON PLEAS RECORD

THE STATE OF OHIO,
CUYAHOGA COUNTY, S.S.

I, EMIL J. MASGAY, Clerk of the Court of Common Pleas, within and for said County, and in whose custody the Files, Journals and Records of said Court are required by the Laws of the State of Ohio to be kept, hereby certify that the foregoing copy is taken and copied from the records Journal 267 page 951 Dated May 4th 1932 of the Proceedings of the Court of Common Pleas, within and for said Cuyahoga County, and that said foregoing copy has been compared by me, with the original record Journal 267 page 951—Dated May 4th 1932 and that the same is a correct transcript thereof.

[SEAL]

IN TESTIMONY WHEREOF, I do hereby subscribe my name officially and affix the seal of said Court at the Court House in the City of Cleveland, in said County, this 21st day of September A. D. 1961.

/s/ EMIL J. MASGAY
Clerk

I, SAMUEL H. SILBERT, Chief Justice of the Court of Common Pleas, within and for the Fourth Judicial District of the State of Ohio, in which District is said County of Cuyahoga, do hereby certify, that EMIL J. MASGAY was at the date of the above certificate, and now is, Clerk of said Court of Common Pleas, within and for said Cuyahoga County, and State of Ohio, and that said Clerk is the officer in whose custody said original record Journal 267 page 951 Dated—May 4th 1932 is required to be kept by the Laws of the State of Ohio, and authorized by the Laws of the State of Ohio, to certify as aforesaid, and that said attestation to said copy of said record is in due form of Law.

Signed by me and dated at Cleveland, Cuyahoga County, Ohio, this 21st day of September A. D. 1961.

/s/ SAMUEL H. SILBERT
Judge, as aforesaid

I, EMIL J. MASGAY, Clerk of the Court of Common Pleas, a Court of Record of Cuyahoga County, do hereby certify that Samuel H. Silbert was at the date of the foregoing certificate the duly elected, qualified and acting Chief Justice of the Court of Common Pleas of Cuyahoga County.

[SEAL]

IN TESTIMONY WHEREOF, I hereunto subscribe my name and affix the seal of said Court, at Cleveland, this 21st day of September A. D. 1961.

/s/ EMIL J. MASGAY
Clerk

[fol. 663]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 21

EXCERPTS FROM TRANSCRIPT OF EVIDENCE AND PROCEEDINGS IN
RESPONSE TO SUBSTANTIAL AFFIRMATIVE SHOWING RE-
QUIREMENT OF ORDER OF JUNE 3, 1946.

(July 22, 1946)

DISTRICT COURT OF THE UNITED STATES IN AND FOR THE
EASTERN DIVISION OF THE EASTERN JUDICIAL
DISTRICT OF MISSOURI

No. 3957

JAMES E. YOUNG, Plaintiff,

vs.

GULF, MOBILE & OHIO RAILROAD COMPANY,
a corporation, Defendant.

[fol. 664] WILLIAM H. DePARCQ, a witness of lawful age,
being duly produced, sworn and examined, testified in his
own behalf as Respondent, as follows:

Direct examination.

By Mr. Duggan:

Q. Will you please state your name?

[fol. 665] A. William H. DeParcq.

Q. Where do you reside?

A. Minneapolis, Minnesota.

Q. And your profession or occupation, please?

A. I am a lawyer.

[fol. 666] Q. Are you Regional Counsel for the Brotherhood of Railroad Trainmen?

A. Yes, sir.

Q. As Regional Counsel are you engaged in, or do you agree to split fees with the Brotherhood of Railroad Trainmen, or with any director, bureau, officer, agent or employee thereof?

A. No, sir.

Q. Have you any such agreement, indirectly or directly, in the Young case?

A. I do not.

Q. Do you propose hereafter to enter into such an agreement in the Young case?

A. No, sir.

Q. Or in any other case?

A. No, sir.

Q. At present are you a member of any firm, or are you practicing solely as an individual?

A. Since April 1st this year, I have been practicing solely as an individual and I have my individual practice; I do not have any partnership except I do have a limited arrangement with Tom Davis whereby he is interested in certain Brotherhood cases that I handle, that is; he is interested from the standpoint of a division of fees. But I maintain my office and pay my own overhead, handle all [fol. 667] of my own cases, and he has no interest whatever in my practice, but this Brotherhood appointment I obtained through him, the territory to which I am assigned is his territory and has been for a good many years, and because it was too much for him to handle, because he is getting older, I have taken over some of his territory and I do have a limited arrangement with him, and he is interested in the Young case.

Q. Mr. DePareq, I show you DePareq Exhibit 2, and ask you if you received that letter from Mr. Whitney.

A. I did.

Q. And in that letter he discusses this particular case?

A. That is correct.

Q. I show you DeParcq Exhibit 3 and ask you what that is, if you know, Mr. DeParcq.

[fol. 668] A. That is a bulletin that was sent to sixteen law firms in the United States, that constitute regional counsel, dated June 15, 1946, signed by A. F. Whitney, as President of the Brotherhood of Railroad Trainmen, advising all Regional Counsel that neither the Brotherhood of Railroad Trainmen, nor any department or bureau thereof, is financially interested in any case or cases now pending or to be filed by them in any court, against any common carrier, or others, and that no part of any fee received by such Regional Counsel is anticipated or will be accepted by the Brotherhood of Railroad Trainmen.

I might say that this bulletin was the culmination of a series of conferences and negotiations amongst the various law firms that constitute regional counsel, and having commenced months ago. In fact, before this Motion was filed in the Young case this movement was under way and it only culminated in this letter effective June 15, of this year.

Mr. Duggan: I should like to offer at this time DeParcq Exhibits 2 and 3.*

Mr. Ely: No objection.

* DeParcq Exhibits 2 and 3 are the same as Plaintiff's Exhibits 22 and 23.

DePARCQ EXHIBIT 2
7/22/46 MJC

BROTHERHOOD OF RAILROAD TRAINMEN

General Offices
Cleveland 13, Ohio.

June 15, 1946.

Mr. William H. DeParcq,
Regional Counsel,
Brotherhood of Railroad Trainmen,
Suite 1332, 33 N. LaSalle St.,
Chicago, Illinois.

[fol. 669]

Dear Mr. DeParcq:

It has come to my attention that in the District Court of the United States, Eastern Division, Eastern District of Missouri, charges were made that you have been engaged, directly or indirectly, in the practice of splitting your fees or compensation as counsel in certain cases founded upon the Federal Employers' Liability Act or the Safety Appliance Act, or both, with the Brotherhood of Railroad Trainmen, its officers, directors or employees.

Please be advised that neither the Brotherhood of Railroad Trainmen, nor any department or bureau thereof, is financially interested in any cases now pending or to be filed by you as regional counsel in the above-named, or any other, court, in Missouri, or any other state, and that no portion of your fees are expected or will be accepted by the Brotherhood of Railroad Trainmen.

Yours very truly,

(Signed) A. F. WHITNEY,
President.

DePAREQ EXHIBIT 3
7/22/46 MJC

BROTHERHOOD OF RAILROAD TRAINMEN

General Offices
Cleveland 13, Ohio.

June 15, 1946.

All Regional Counsel,
Brotherhood of Railroad Trainmen

Dear Sirs:

Please be advised that neither the Brotherhood of Railroad Trainmen, nor any department or bureau thereof, is financially interested in any case or cases now pending or to be filed by you in any court in any state against common carriers, or others, and that no part of any fee received by you is anticipated or will be accepted by the Brotherhood of Railroad Trainmen.

Yours very truly,

(Signed) A. F. WHITNEY,
President.

[fol. 670] Q. Mr. DePareq, do you have any agreement with the Brotherhood of Railroad Trainmen, any of its officers, directors, employees, or any member thereof, or do you have any agreement with any other person, or group of persons, to split fees in any litigation that you are handling, except such litigation as you may be handling with other lawyers who have a right to practice law?

A. I do not.

Q. I ask you the same question, and leave out the exception with respect to the lawyers: Do you have any agreement, direct or indirect, oral or written, to split fees with the Brotherhood of Railroad Trainmen, any officer, director, member or employee thereof, or any other person or group of persons or organizations?

A. I do not.

• • • • •

[fol. 671] Cross examination.

By Mr. Ely:

Q. I notice that DePareq Exhibit 2 and DePareq Exhibit 3 are both dated June 15, 1946; is that correct?

A. That is correct.

Q. Prior to that date, at the time this Motion was filed, did you have an arrangement whereby part of your fees went to the Legal Aid Bureau of the Brotherhood of Railroad Trainmen?

A. Well, I will read you what the arrangement was and then you can determine whether it consisted of splitting fees. Prior to the time these negotiations and conferences culminated in this new reorganization, effective June 15 of [this year, any Brotherhood cases handled by the firm of which I was a member, Mr. McDonald and Mr. Davis and myself, or, after its dissolution by myself, four per cent. of the gross amount recovered was sent to the Legal Aid Department of the Brotherhood of Railroad Trainmen. [fol. 672] Now, strictly and technically, that did not consist of four per cent. of the attorney's fee. In other words, it didn't vary with the attorney's fee. The attorney's fee might be more or less, depending upon the expenses and who paid them, or the attorney might waive his fee entirely. So, that the amount that went to—

The Court: Four per cent. of the recovery?

The Witness: Gross recovery in each and every Brotherhood case, and that was true no matter what the attorney's fee was, so that the payment was out of gross recovery.

Mr. Ely: Q. That was true until what date?

A. June 15, 1946.

Q. So, whether it was an arrangement to split fees or not, you did have a contract or understanding that four per cent. of any amount you might recover, gross amount you might recover in any case, either by suit or settlement, would go to the Legal Aid Bureau of the Brotherhood?

A. That is right.

Q. How was that paid to the Legal Aid Bureau?

A. The attorney would pay it himself.

Q. And that arrangement was brought to an end on the 15th of June of this year?

A. That is correct.

Q. What is the arrangement now which regional counsel have with the Brotherhood?

[fol. 673] A. The regional counsel do not pay anything. They keep the entire fee; or twenty-five per cent. of the recovery, and neither the attorneys nor the clients send one penny to the Brotherhood.

Q. Nor to any bureau?

A. That is correct.

Q. But you are still Regional counsel for the Brotherhood?

A. That is right.

Q. Do you receive any compensation from the Brotherhood?

A. No, sir.

Q. Did you read an article in the February, 1946, Journal of the American Judicature Society, entitled "Interstate Commerce in Damage Suits"?

A. Yes.

[fol. 674] Q. It referred to the Ryan case, I believe?

A. Well, I wouldn't say.

Q. On page 138 of that copy of the Journal of the American Judicature Society—the article starts on page 135, "Interstate Commerce in Damage Suits", and then under the heading "Legal Aid Department", starting on page 138 of that article, it says:

"A great many of these cases, although not all of them by any means, are traceable to the activities of the so-called 'legal aid departments' of certain of the railroad employee labor unions or brotherhoods. These departments, established chiefly for the purpose of assisting their members in prosecuting their claims for personal injuries, have selected certain lawyers and law firms in various cities and designated them 'regional counsel'. Their names are kept before the members in one way or another, and they get most of the members' business".

You remember reading that article?

A. I read the article.

Q. How is your name kept before the members as regional counsel of the Railroad Brotherhood?

A. Well, it is published in the Brotherhood magazine that comes out quarterly, and on the second page from the end of that magazine you will find a heading, "Regional [fol. 675] Counsel" and then with their names and addresses after that. Sixteen, eighteen or twenty law firms all over the United States are listed there with their addresses. You will find my name there.

Q. Does your name go to members of the Brotherhood in any other way, through any individual solicitation, I mean, of different persons, who solicit cases and death claims in various parts of the United States?

A. No; I wouldn't call it solicitation.

Q. What would you call it?

A. I would say that if a member desires the services of the Legal Aid Department he is notified of the name and address of the regional attorney in the territory where he is located.

Q. How is the member first contacted?

A. Usually, by the Regional Investigator who was appointed by President Whitney, and he, himself, must be a member of the Brotherhood, and he is nearly always a railroad man.

Q. What is your arrangement with Tom Davis?

[fol. 676] A. Tom Davis receives fifteen per cent of my net fee in any Brotherhood case coming from the territory that I now handle, that was formerly in his territory. In other words, I am servicing, so to speak, a part of his territory and with his co-operation and his assistance, and split fees with him and he gets fifteen per cent of my net fee.

Q. Does he receive a guaranty?

A. No. There was such a proposition originally, but it never was effective.

Q. The proposition was to pay him twenty-five hundred dollars a month?

A. No.

Q. How much was it?

A. About fifteen hundred; he never got it.

[fol. 677] Q. Why did the Legal Aid Department do away with that and decide not to take the four per cent?

A. Well, they were under constant criticism by railroad companies and lawyers.

Q. And courts?

A. On one occasion, that I know of.

[fol. 678] Q. What?

A. The O'Neill case.

Q. And what other case?

A. Rowe.

Q. How about the American Judicature Society?

The Court: How about what?

Mr. Ely: American Judicature Society.

Q. You were under criticism by them?

A. Various bar committees and articles that were written like the ones you referred to have criticized that arrangement. However, some years or so ago, as I recall it, Mr. Hensley was before the Chicago Bar Association on various railroad companies' and lawyers' complaints, and initiated some kind of proceeding. He is Regional Counsel for the Brotherhood in various eastern States, and is the only other regional counsel in Chicago, except myself, and his entire office, as I recall, was investigated by the Chicago Bar Association. His arrangement with the Brotherhood is very similar to my own, and he was required to make a few changes in stationery, here and there, and, as far as I understand, the proceeding was dismissed.

[fol. 679] Mr. Ely: Mr. DeParcq, before noon Mr. Dugan handed me these Rules and Regulations Governing Relations of Regional Counsel and the Brotherhood of Railroad Trainmen. I believe the statement was made that we might offer them in evidence if we so desire.

I will just read it, but I haven't read it thoroughly myself. It is only two pages long.

(Reading) "RULES AND REGULATIONS GOVERNING RELATIONS OF REGIONAL COUNSEL AND THE BROTHERHOOD OF RAILROAD TRAINMEN"

"Lawyers will be selected in various railroad centers of the United States with a view to rendering the service contemplated with the greatest degree of efficiency, keeping in mind the convenience of members and total membership in a given district.

"Members who are injured or the dependents of members who are killed in the course of their employment, may write or call on the Legal Aid Department of the Brotherhood for assistance, or may request such assistance through the officers of the local lodge. They will be requested to furnish, as nearly as possible, a full and complete statement of all the facts surrounding the accidental death or injury. This will include written statements of witnesses, if possible. Injured members will also be asked, to furnish statements from medical examiners where there is any question as to the nature and extent of the disability. [fol. 680] "In injury or death cases upon request of the injured member or dependents of a deceased member, and where circumstances seem to warrant it, an investigation will be made by regional counsel or authorized investigators representing the Legal Aid Department, to ascertain the facts surrounding the accident or death.

"It shall be the duty of regional counsel, when requested to do so, to advise injured members or the dependents of deceased members, with a view to enabling them to effect a fair settlement. It is expected that regional counsel will urge an amicable settlement in all cases where a reasonable offer has been made by the railroad company. The Brotherhood will insist that regional counsel in such cases will furnish advice solely with a view to promoting the best interests of the members or their dependents. Any over-reaching on the part of regional counsel intended to induce members or their dependents to sign contracts of employment will be discountenanced.

"Although the Brotherhood, upon request, will make investigations for the purpose of assisting its members, we will not countenance any members being solicited or coerced into signing a contract of employment, and any investigators or representative who [fol. 681] attempts so to do will distinctly understand that he is violating our rules and will be dealt with accordingly in the event such charge is substantiated.

"It is anticipated that members and dependents may go direct to regional counsel for information and advice, and all such cases will be handled by regional counsel in the same manner as if referred to them by the Legal Aid Department of the Brotherhood.

"Although the membership will be advised of the names and addresses of regional counsel for their particular territory, each member or dependent will be privileged to consult with or employ any counsel they desire.

"The Brotherhood and its employees shall not undertake to furnish members of the Brotherhood, or their dependents, with any advice or information as to their legal rights. It is to be distinctly understood that all legal opinions, or matters pertaining to the practice of law, shall be obtained through duly licensed lawyers, and that no layman shall be permitted to infringe in any manner upon the rights or privileges of practicing attorneys.

"In cases where members have exhausted their own efforts in attempts to procure settlement and ask for advice as to the next step they should take, they may be [fol. 682] referred to regional counsel, with whom contracts may be made for the prosecution of their claim. It must be understood that the Brotherhood cannot and will not undertake to advise or control the actions of members in this regard, and that they will remain free to employ any attorneys they desire. Where members or their dependents see fit to employ regional counsel, such counsel shall enter into a contract with the claimant calling for the payment of a contingent fee of not more than twenty-five per

cent. (25%) of the net amount recovered in suit or settlement. Where no contract for the services of regional counsel has been signed, no fees can be expected or requested of claimants.

"It will be understood that members will have control of their cases in the hands of regional counsel and that no settlement of any case can be made without the consent of the client.

"Regional counsel will be required to report to the Legal Aid Department all cases in which a contract has been entered into with members of the Brotherhood or their dependents as a result of personal injury sustained in the course of their employment, setting forth a statement of the facts involved and when settlement has been consummated, a full report and statement covering amount of settlement and [fol. 683] distribution."

I believe that is the end of it, and then there are spaces for acceptance, is that right?

A. Correct.

Q. Mr. DeParcq, when were these rules and regulations promulgated to you, when did you first become acquainted with them?

A. The first time I ever heard of them was perhaps a little more than a year ago.

Q. There is nothing in this document that I have read that refers to the payment of four per cent. of any amount recovered, to the Brotherhood?

A. That is correct.

Q. Was there any written contract between the regional counsel and the Legal Aid Department of the Brotherhood providing for payment of that four per cent.?

A. Not in my case.

Q. That was merely an understanding?

A. That is correct, an oral agreement.

Q. But there is here a provision requiring you, and all regional counsel, to report to the Legal Aid Department all cases in which a contract has been entered into with members of the Brotherhood?

A. That is correct.

Q. Another requirement is that when settlement has been consummated a full report and statement covering the [fol. 684] amount of settlement and distribution shall be made to the Legal Aid Department?

A. That is in the rules. They keep statistics on that.

Q. Do you know how much you have paid the Legal Aid Department of the Brotherhood, or approximately how much you have paid them on any four per cent. payment that you have made?

A. Individually, nothing. Since April 1, 1946, I have paid absolutely nothing to the Brotherhood.

[fol. 685]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 24

IN THE SUPERIOR COURT
STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

STATE OF NORTH CAROLINA ex rel. W. K. McLEAN, as
Solicitor of the Nineteenth Judicial District,
Plaintiff,

vs.

C. O. HICE, JOSEPH B. MCGLYNN, J. V. ROBERTS, W. D. MILLS
and Other Persons, Associations or Corporations Whose
Names Are at Present Unknown,

Defendants.

JUDGMENT

[fol. 686] NOW, THEREFORE, upon the foregoing and upon the pleadings and motions in this cause, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

3. That in accordance with the prayer of the complaint, and in accordance with the facts set forth in the complaint, said facts having been admitted by failure to file answer [fol. 687] or offer answer, and having therefore been found to be true and correct by this Court, the defendants herein are hereby permanently enjoined as follows:

(A) That the defendants, C. O. Hice, Joseph B. McGlynn, J. V. Roberts and W. D. Mills, their agents, representatives and employees, be and they are hereby permanently enjoined and restrained from advising with and giving opinions in North Carolina, upon the legal rights of any person, firm or corporation, and

(B) That they and each of them be further permanently enjoined and restrained, by word, sign, letter or advertisement, from holding out (in North Carolina), Joseph B. McGlynn, or any other attorney, not authorized to practice law in the State of North Carolina, as competent or qualified to give legal advice or counsel to any person, firm or corporation, and

(C) Said named parties defendant, their agents, representatives and employees, are further permanently enjoined and restrained from soliciting or procuring, through solicitation, or attempting to solicit, or to attempt to procure through solicitation, either directly or indirectly, any legal business, whether to be performed in this State, or elsewhere, by themselves, or by the defendant Joseph B. McGlynn, or by any person located anywhere; and

(D) Said named parties defendant, their agents, representatives and employees be and they are further permanently enjoined and restrained from furnishing or agreeing to furnish, or promising to furnish transportation to any person to any point in or out of North Carolina, for the purpose of conferring with the defendant, Joseph B. McGlynn, or any other attorney.

This 12th day of May, 1948.

/s/ H. HOYLE SINK
Judge Presiding

[fol. 638]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 28

IN THE SUPREME COURT OF NEBRASKA

Original 34257

THE STATE OF NEBRASKA, ex rel. CLARENCE S. BECK,
Attorney General,

Plaintiff,

vs.

PHILIP B. LUSH, GAIL A. CLINKENBEARD; GRAND LODGE
BROTHERHOOD OF RAILROAD TRAINMEN; SUBORDINATE
LODGE 853 AT FALLS CITY, NEBRASKA; SUBORDINATE LODGE
400 AT FAIRBURY, NEBRASKA; SUBORDINATE LODGE 190 AT
CHADRON, NEBRASKA; SUBORDINATE LODGE 170 AT LINCOLN,
NEBRASKA; SUBORDINATE LODGE 134 AT GRAND ISLAND,
NEBRASKA; R. J. GROVES; F. A. ARNOLD; W. G. GRIFFIN;
D. G. KLEIN; and W. STULL,

Defendants.

CONSENT DECREE

NOW on this 6th day of May, 1960, this matter came on to be heard before this Court, the plaintiff appearing by its attorneys, John S. Samson and Robert A. Nelson, Special Assistant Attorneys General, the defendants, Grand Lodge Brotherhood of Railroad Trainmen, Subordinate Lodge No. 134, Grand Island, Nebraska; Subordinate Lodge No. 170, Lincoln, Nebraska; Subordinate Lodge No. 190, Chadron, Nebraska; Subordinate Lodge No. 400, Fairbury, Nebraska; Subordinate Lodge No. 853, Falls City, Nebraska, Gail A. Clinkenbeard, R. J. Groves, F. A. Arnold, W. G. Griffin, D. G. Klein and W. Stull appearing by their attorneys, Crosy, Pansing, Guenzel & Binning, and the defendant, Philip B. Lush, appearing by his attorney, Chauncey E. Barney, the recommendations and findings

of the Referee being before this Court, and the Court, being fully advised in the premises, finds as follows:

[fol. 689] (1) That the parties hereto have entered into a written stipulation filed herein, the same has been recommended by the Referee for approval by this Court, which stipulation and recommendation of the Referee are by this reference made a part hereof.

(2) That in the year 1930, the Brotherhood of Railroad Trainmen hereinafter referred to as the Brotherhood, established a Department designated as "Legal Aid Department"; that the "Legal Aid Department" of the Brotherhood of Railroad Trainmen maintains a central office in Cleveland, Ohio, at the National Headquarters of the Brotherhood.

(3) That the Brotherhood of Railroad Trainmen by and through its President, at all times mentioned in the Amended Information, had designated 16 regions in the United States and had designated regional counsel therein for the Brotherhood of Railroad Trainmen; that at all times mentioned in the Amended Information filed herein, prior to January 1, 1956, Philip B. Lush was a member of Davis, Berat, Yeager and Lush, a law firm, and was, as an individual, a regional counsel of said Brotherhood under said Legal Aid Plan, and, after January 1, 1956, was and now is a member of the law firm of Davis and Lush of Minneapolis, Minnesota, and as an individual, was Regional Counsel of said Brotherhood under said plan, for a region which included the State of Nebraska.

(4) That at all times mentioned in the Amended Information herein the Cleveland Office of the Legal Aid Department served as a clearing house which received reports from all Brotherhood Lodges of instances in which members had been injured or killed in railroad accidents; that, generally each region had assigned to it a person or persons [fol. 690] designated as "Regional Investigators" who were charged generally with the duty of calling on said injured workman or the widow or heirs at law of a workman who was killed as the result of a railroad accident; and that at all times mentioned therein, the defendant,

Gail A. Clinkenbeard, was a regional investigator for the region which included the State of Nebraska.

(5) That at all times mentioned in the Amended Information filed herein each subordinate lodge of the Brotherhood of Railroad Trainmen had one or more designated persons whose duty it was to report to the Cleveland Office, as aforementioned, and to aid the regional investigator in contacting such injured workman or the widow or heirs at law of a workman who had been killed in a railroad accident; and that the defendants, R. J. Groves, F. A. Arnold, W. G. Griffin, D. G. Kline and W. Stull acted in such capacity,

(6) That in contacting such injured workman or the widow or heirs at law of a workman who had been killed, said Gail A. Clinkenbeard and the local representatives of the lodges herein named as defendants, in some instances, solicited the employment of the Regional Counsel for the purpose of collecting damages against the railroad companies involved; that, in some instances, the said Gail A. Clinkenbeard displayed newspaper clippings and photostatic copies of checks showing large settlements or judgments secured by such regional counsel in previous cases, which were displayed to the prospective clients as an inducement to enter into contracts of employment with such regional counsel; that, in some instances, as an added inducement to secure such contracts of employment, promises were made that the regional counsel would advance the necessary sums for medical examinations, all Court [fol. 691] costs and other expenses of litigation and would advance funds for living expenses while the action was pending. That, in some instances, as a result of the said conduct on the part of the said Gail A. Clinkenbeard and the local representatives designated herein as defendants, contracts were secured with such prospective clients whereby the regional counsel was employed to represent them in their claims against the railroad companies; and such regional counsel did, in some instances, advance funds for medical examinations, court costs and other expenses of litigation and, in some instances, did advance

funds for living expenses of the client while said action was pending.

(8) That the persons so contacted represented both members and non-members of the Brotherhood of Railroad Trainmen and that the contract for attorneys fees where the client was a member of the Brotherhood generally provided for payment of a contingent attorneys fee in the amount of 25 per cent of the amount recovered and in the case of non-members for a fee of 33 $\frac{1}{3}$ per cent of the amount recovered.

(9) That the defendant, Gail A. Clinkenbeard, was paid for his services as regional investigator on the basis of 10 per cent of the attorneys fee collected by regional counsel on each case where he had made the contact and investigation after the deduction of 25 per cent from such fee as a general overhead expense, and in cases involving non-members, his compensation was 15 per cent of the amount of attorneys fee, less a deduction of 25 per cent for general overhead expense; that the other defendants named in Paragraph (5) herein were sometimes paid by regional counsel for services rendered, which payments, if any, varied in amount.

[fol. 692] (10) That all salaries, commissions and compensation paid to the defendant, Gail A. Clinkenbeard, and all payments to the defendants named in Paragraph (5) herein who received payments as stated in Paragraph (9) were paid by the regional counsel either directly, or indirectly by having such sums channeled through the office of the Legal Aid Department; and that the general expenses of operating the Legal Aid Department were paid by all regional counsel, each counsel being assessed his proportionate share of the total costs of the operation of the Department at the end of each year, in the ratio that their respective gross recoveries bore to the total gross recoveries throughout the country.

(11) That the defendants herein, and each of them, have represented that they have discontinued the improper practices hereinbefore set forth and that, therefore, the plaintiff, C. S. Beck as Attorney General of the State of

Nebraska, has withdrawn his motion for citation for contempt as a part of the stipulation filed herein as to all defendants and the same should be dismissed.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

(1) That motion for citation for contempt be and the same is hereby dismissed as to each defendant.

(2) That in the procurement of a case within the State of Nebraska the defendants, Grand Lodge Brotherhood of Railroad Trainmen, Subordinate Lodge No. 134, Grand Island, Nebraska; Subordinate Lodge No. 170, Lincoln, Nebraska; Subordinate Lodge No. 190, Chadron, Nebraska; Subordinate Lodge No. 400, Fairbury, Nebraska; Subordinate Lodge No. 853, Falls City, Nebraska, Gail A. [fol. 693] Clinkenbeard, R. J. Groves, F. A. Arnold, W. G. Griffin, D. G. Klein and W. Stull and all persons acting by, through and under them or either of them are hereby jointly and severally permanently enjoined and restrained from:

a. Telling any person or his representatives that said person has a cause of action, the amount he is entitled to recover, where suit should be filed, or doing any other act or thing which constitutes the practice of law within the State of Nebraska;

b. Negotiating or attempting to negotiate contracts of employment for legal services on behalf of any lawyer or lawyers;

c. Accepting pay or any gratuity or benefit whatsoever, directly or indirectly, from any lawyer, person or organization for services in obtaining contracts of employment for legal services;

d. Loaning or advancing or promising to loan or advance money to any person or his representative pending trial or settlement of his claim or suit either personally or for or on behalf of any other person;

e. Displaying, exhibiting, or showing copies or photographs of checks, releases, newspaper accounts

or other data concerning settlement made on behalf of other claimants for the purpose of inducing any person, or his representatives, or which may tend to induce said person, to enter into contracts for the legal services of any lawyer;

[fol. 694] f. In any way or any manner in concert with any resident or nonresident lawyer conspire to violate the laws of Nebraska or the Canons of Legal Ethics imposed by the Courts on lawyers licensed to practice law in the State of Nebraska.

g. In any way or in any manner violate or aid or abet the violation of the provisions of Paragraph (2) of this decree.

(3) That in the procurement of a case within the State of Nebraska the defendant, Philip B. Lush as an individual and as a lawyer admitted to the practice of law within the State of Minnesota, and all persons acting by, through or under him, in any way or in any manner, either personally or by or through an agent, servant, employee, partner, or associate is hereby jointly and severally enjoined and restrained from:

a. Improperly and illegally soliciting employment as a lawyer in the State of Nebraska;

b. Paying any person, either directly or indirectly, for services rendered in obtaining or soliciting such contracts of employment within the State of Nebraska, or accepting any such employment or any benefit derived from any such solicitation;

c. Promising to loan or advance, or loaning or advancing, money to any person or persons at any time for the purpose of inducing said person or persons to employ said defendant, either jointly or severally;

[fol. 695] d. Making unsolicited calls on any person for the purpose of soliciting contracts of employment;

e. Violating the laws of Nebraska concerning the practice of law within the State of Nebraska or Canons

of Legal Ethics imposed by the Supreme Court of Nebraska, required of and observed by resident lawyers licensed in the State of Nebraska;

f. In any way or in any manner violate or aid and abet the violation of the provisions of Paragraph (2) of this decree.

(4) That costs in the amount of \$..... are hereby taxed to the defendants.

By THE COURT:

Frank W. Messmore
Judge of the Supreme Court of
Nebraska.

The foregoing CONSENT DECREE approved as to content and form.

The State of Nebraska

By C. S. Beck, Attorney General

By /s/ ROBERT A. NELSON
Robert A. Nelson
Special Assistant Attorney
General

By JOHN S. SAMSON
John S. Samson
Special Assistant Attorney
General

[fol. 696]

Gail A. Clinkenbeard; Grand Lodge
Brotherhood of Railroad Train-
men; Subordinate Lodge 853 at
Falls City, Nebraska; Subordinate
Lodge 400 at Fairbury, Nebraska;
Subordinate Lodge 190 at Chadron,
Nebraska; Subordinate Lodge 170
at Lincoln, Nebraska; Subordinate
Lodge 134 at Grand Island, Ne-
braska, R. J. Groves; F. A. Arnold;
W. G. Griffin; D. G. Klein; and W.
Stull

By CROSBY, PANSING, GUENZEL &
BINNING
Their Attorneys

By /s/ ROBERT B. CROSBY
Robert B. Crosby
One of said Attorneys

Philip B. Lush

By /s/ CHAUNCEY E. BARNEY
Chauncey E. Barney, His Attorney

[fol. 697]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 28A

34257

Filed May 6, 1960.

STATE ex rel. BECK

v.

LUSH

[fol. 698]

Opinion

Heard before Messmore, Yeager, Chappell, Wenke, and
Boslaugh, JJ.

YEAGER, J.

[fol. 699] "IT IS THEREFORE ORDERED, ADJUDGED AND
DECREED:

"(1) That motion for citation for contempt be and the
same is hereby dismissed as to each defendant.

"(2) That in the procurement of a case within the State
of Nebraska the defendants, Grand Lodge Brotherhood of
Railroad Trainmen, Subordinate Lodge No. 134, Grand
Island, Nebraska; Subordinate Lodge No. 170, Lincoln,
Nebraska; Subordinate Lodge No. 190, Chadron, Nebraska;
Subordinate Lodge No. 400, Fairbury, Nebraska; Subor-

dinate Lodge No. 853, Falls City, Nebraska, Gail A. Clinkenbeard, R. J. Groves, F. A. Arnold, W. G. Griffin, D. G. Klein and W. Stull and all persons acting by, through and under them or either of them are hereby jointly and severally permanently enjoined and restrained from:

[fol. 700] "a. Telling any person or his representatives that said person has a cause of action, the amount he is entitled to recover, where suit should be filed, or doing any other act or thing which constitutes the practice of law within the State of Nebraska;

"b. Negotiating or attempting to negotiate contracts of employment for legal services on behalf of any lawyer or lawyers;

"c. Accepting pay or any gratuity or benefit whatsoever, directly or indirectly, from any lawyer, person or organization for services in obtaining contracts of employment for legal services;

"d. Loaning or advancing or promising to loan or advance money to any person or his representative pending trial or settlement of his claim or suit either personally or for or on behalf of any other person;

"e. Displaying, exhibiting, or showing copies or photographs of checks, releases, newspaper accounts or other data concerning settlement made on behalf of other claimants for the purpose of inducing any person, or his representatives, or which may tend to induce said person, to enter into contracts for the legal services of any lawyer;

"f. In any way or any manner in concert with any resident or nonresident lawyer conspire to violate the laws of Nebraska or the Canons of Legal Ethics imposed by the [fol. 701] Courts on lawyers licensed to practice law in the State of Nebraska.

"g. In any way or in any manner violate or aid or abet the violation of the provisions of Paragraph (2) of this decree.

"(3) That in the procurement of a case within the State of Nebraska the defendant, Philip B. Lush as an individual and as a lawyer admitted to the practice of law within the State of Minnesota, and all persons acting by, through or under him, in any way or in any manner, either personally or by or through an agent, servant, employee, partner, or associate is hereby jointly and severally enjoined and restrained from:

"a. Improperly and illegally soliciting employment as a lawyer in the State of Nebraska;

"b. Paying any person, either directly or indirectly, for services rendered in obtaining or soliciting such contracts of employment within the State of Nebraska, or accepting any such employment or any benefit derived from any such solicitation;

"c. Promising to loan or advance, or loaning or advancing, money to any person or persons at any time for the purpose of inducing said person or persons to employ said defendant, either jointly or severally;

"d. Making unsolicited calls on any person for the purpose of soliciting contracts of employment;

"e. Violating the laws of Nebraska concerning the practice of law within the State of Nebraska or Canons of Legal Ethics imposed by the Supreme Court of Nebraska, required of and observed by resident lawyers licensed in the State of Nebraska;

"f. In any way or any manner violate or aid and abet the violation of the provisions of Paragraph (2) of this decree."

It becomes apparent from an examination of the pleadings, the stipulation, and the proposed decree that if the decree is entered that all of the purposes of the action will have been accomplished except that portion relating to the matter of contempt on or before May 10, 1957.

This abandonment by the plaintiff of the effort to hold the defendants for alleged acts committed before May 10, 1957, in view of the injunctive provisions of the decree, if

rendered, and the effect thereof, it is thought, should not militate against the rendition of the decree on the basis of the stipulation.

Section 25-1072, R. R. S. 1943, provides in part: "An injunction granted by a judge may be enforced as the act of the court. Disobedience of an injunction may be punished as a contempt by the court, or by any judge who might have granted it in vacation."

In interpretation and application of this statutory provision this court has said: "The first point raised is that, as she was not made a party to the injunction proceedings, she is not bound by the orders therein. We cannot sustain her [fol. 703] in this, as it has too frequently been held that one who has knowledge of an injunction and is in privity with the party enjoined is bound thereby." *Wilcox v. Ashford*, 131 Neb. 338, 268 N. W. 81.

It is therefore the opinion of this court that the proposed decree presented with the stipulation of the parties should be and it is hereby approved and it shall be considered as rendered and entered by this court on being signed by one of the members of the court.

CONSENT DECREE APPROVED

[fol. 704]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 29

Filed
In Supreme Court
of Oklahoma
May 2, 1960
Andy Payne, Clerk

IN THE SUPREME COURT OF
THE STATE OF OKLAHOMA

No. 38373

State of Oklahoma, ex rel.,
Oklahoma Bar Association,

Petitioner,

vs.

Brotherhood of Railroad Trainmen, an International Rail-
road Union; W. P. Kennedy; C. R. Maher; Payne Rat-
ner, Sr.; Payne Ratner, Jr.; J. W. Harvey; Roy
Cramer; J. W. Wilkerson; J. E. Wilkinson; W. I. God-
dard and George King,

Respondents.

DECREE

[fol. 705] The Court having announced ready to pro-
ceed with the hearing of this matter as it pertains to
defendants, Brotherhood of Railroad Trainmen, an Inter-
national Railroad Union, W. P. Kennedy, C. R. Maher, J. W.
Harvey, Roy Cramer, J. W. Wilkerson, J. E. Wilkinson,
W. I. Goddard and George King, counsel for said defen-
dants and counsel for the Bar Association, in open court
announced to the Court that they had entered into an
agreement and stipulation for the entry of a Consent
Decree by this Court granting the relief prayed for in the
Petition For Injunction.

The Court, pursuant to said stipulation, enters the fol-
lowing finding and decree:

[fol. 706]

I.

The Petitioner herein, Oklahoma Bar Association, is an association duly and legally created by law, and authorized to prosecute this action.

II.

The respondent Brotherhood of Railroad Trainmen, is an international, unincorporated voluntary association, with its headquarters and place of business at Cleveland, Ohio, but doing business in Oklahoma through its subordinate lodges in various communities within this State.

III.

The respondents W. P. Kennedy and C. B. Maher are officers of the Brotherhood of Railroad Trainmen, the respondent Kennedy being the president thereof, and the respondent Maher being the Chief Clerk of the Legal Aid Department of said international Union.

IV.

The respondents J. W. Harvey, Roy Cramer, J. W. Wilkerson, J. E. Wilkinson, W. I. Geddard and George King are members of Local Lodges of said Brotherhood located within the State of Oklahoma and the State of Kansas.

[fol. 707]

V.

At all times material hereto, none of the respondents above named has been licensed or authorized to practice law in the State of Oklahoma.

VI.

The parties stipulate and agree that this Court has full and complete jurisdiction of the parties hereto and of the subject matter herein involved.

VII.

Prior to the time this controversy arose the respondent Brotherhood of Railroad Trainmen caused to be filed in

the Supreme Court of the State of Illinois a proceeding asking for a declaratory judgment defining the rights, duties and obligations of said respondent, Brotherhood of Railroad Trainmen, and its regional counsel, which proceeding resulted in the rendition of an opinion of the Supreme Court of the State of Illinois, being styled and numbered as follows:

"In re Brotherhood of Railroad Trainmen,
150 N. E. 2nd 168."

The opinion of the Supreme Court of Illinois is referred to and made a part of this decree as though fully set out herein.

[fol. 708] IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the respondents, Brotherhood of Railroad Trainmen, W. P. Kennedy, C. R. Maher, J. W. Harvey, Roy Cramer, J. W. Wilkerson, W. I. Goddard and George King, their agents, servants and employees be and the same are hereby perpetually enjoined from soliciting in the State of Oklahoma, any personal injury or death claim, for or on behalf of any person, or on behalf of any attorney.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the respondent, Brotherhood of Railroad Trainmen, its officers, agents, servants and employees, are permanently enjoined from representing, or attempting to represent any person in any legal matter or proceeding whatsoever in the State of Oklahoma.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the respondents, and each of them are permanently enjoined and restrained from engaging in any activity, conduct or endeavor, condemned by the Supreme Court of Illinois in the Opinion above referred to.

[fol. 709] IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the respondents, and each of them, are permanently restrained and enjoined from engaging in the practice of law in any manner whatsoever in the State of Oklahoma. Done in open Court this 26th day of April, 1960.

DENVER N. DAVISON, Chief Justice.

The undersigned counsel of record for the respective parties hereto have consented and agreed in open court, that the court enter the above judgment and decree.

OKLAHOMA BAR ASSOCIATION,

By **HARRY G. FOREMAN**
Harry G. Foreman

HARDIN BALLARD,
Hardin Ballard
Attorneys for Petitioner.

Brotherhood of Railroad Trainmen
W. P. Kennedy, C. R. Maher, J. W. Harvey,
Roy Cramer, J. W. Wilkerson, J. E. Wilkinson,
W. I. Goddard and George King.

By **O. A. CARGILL**
O. A. Cargill
M. A. "Ned" Looney
M. A. Ned Looney.

I, Andy Payne, Clerk of the Supreme Court of the State of Oklahoma do hereby certify that the above and foregoing is a full, true and complete copy of the Decree filed May 2, 1960 in the above entitled cause, as the same remains on file in my office.

In Witness Whereof I hereunto set my hand and affix the Seal of said Court, at Oklahoma City, this 29 day of September 1961.

Andy Payne, Clerk
/s/ ANDY PAYNE

I hereby certify that the signature in above certification is the true signature of Andy Payne, Clerk of Supreme Court of the State of Oklahoma.

/s/ FLOYD L. JACKSON
Justice of Supreme Court of
the State of Oklahoma.

I hereby certify that the signature of Justice Floyd L. Jackson is the true signature of Justice F. L. Jackson of the Supreme Court of the State of Oklahoma.

/s/ ANDY PAYNE
Andy Payne, Clerk.

[Seal, Supreme Court, State of Oklahoma]

[fol. 710]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 30

IN THE SUPREME COURT OF MISSOURI
EN BANC

No. 47293

FRED B. HULSE, JAMES M. REEVES, FORREST M. HEMKER,
CLYDE J. LINDE and C. WALLACE WALTER, members of
the Advisory Committee,

Informants,

VS.

BROTHERHOOD OF RAILROAD TRAINMEN, an International
Railroad Labor Union, and W. P. KENNEDY, C. R.
MAHER, PHILLIP B. LUSH, DAN MCGLYNN, W. A. WOOD-
SON, E. G. GUNN, FRANK ZAMARIONI and G. A. McNURLAN, individually and as class representatives of all of
the members of Brotherhood of Railroad Trainmen,
Respondents.

CONSENT DECREE

Now on this 14th day of November, 1960, this matter came on to be heard before this Court, the informants appearing by their attorneys, Roberts P. Elam and George S. Hecker, the respondents, Brotherhood of Railroad Trainmen, W. P. Kennedy, W. A. Woodson, E. G. Gunn and Dan McGlynn and Frank Zamarioni appearing by their attorney, Daniel P. Reardon, the respondents Phillip B. Lush and G. A. McNurlan appearing by their attorneys, Lyman Field and Clay C. Rogers, and the respondent, C. R. Maher, having never been served with process, not appearing, the report of the Special Commissioner heretofore appointed by this Court being before this Court, and the Court, being fully advised in the premises, finds as follows:

[fol. 711] 1. The parties hereto have entered into a written stipulation filed herein, which stipulation and the

report of the Special Commissioner are by this reference made a part hereof.

2. The respondent, Brotherhood of Railroad Trainmen (hereinafter sometimes referred to as the "Brotherhood"), is a railway labor union, having in excess of 200,000 members, the great majority of whom are employed as railroad trainmen. It is governed by a body known as the "Grand Lodge of the Brotherhood of Railroad Trainmen," and it conducts its business functions and operations through subordinate lodges, sometimes referred to as "local lodges," located in the various states of the Union, some 35 of which are located in the State of Missouri.

3. In 1930, the Brotherhood established a "Legal Aid Department" by order of its then president, following a referendum ballot of its local lodges, which was explained in Special Circular No. W-28 from the office of the then president of the Brotherhood, A. F. Whitney under date of April 15, 1930, as follows:

"The establishment of the bureau, as well as the making of agreements with regional attorneys throughout the United States, will be consummated as soon as consistently possible, and notice of its establishment will be printed in the 'Railroad Trainman' for the information and guidance of all members.

"Briefly, the plan contemplates the establishment at Grand Lodge headquarters of a bureau, with the necessary legal and clerical assistance, to advise injured members, and the dependents of those who may be killed, as to their rights respecting claims for damage. This assistance will not only be given to [fol. 712] injured members, and the dependents of those killed, but also to proper subordinate lodge officers and committeemen, for the purpose of assisting injured members, or dependents, in negotiating settlements. No fee or charge will be made to the members for this advice.

"In order to secure advice it will be necessary to furnish the bureau with a full statement of facts surrounding the injury or death, so that questions of

liability may be determined. In injury cases not involving the loss of limbs or other specific injuries, it will be necessary to furnish medical statements clearly describing the character and extent of the injury. In cases where investigations must necessarily be made before passing upon the question of liability, which instances are more likely to occur with reference to death cases, the Legal Aid Bureau will undertake to make the necessary investigations, calling to its assistance officers of subordinate lodges and committeemen. It is hoped a full measure of cooperation will be given by these members.

"Because of the great volume of minor injuries occurring to members of the Brotherhood employed on railroads of the country, it will be impossible to give assistance or advice in cases of minor injuries where employees are able to return to work in a comparatively short time. It is felt that, at the outset at least, the bureau should not be requested to give information to employees who can return to work within ninety days. This attitude is taken not only because of the extremely increased burden of work which would be thrust upon the Legal Aid Bureau incident to answering inquiries relative to minor injuries, but by the further fact that it is invariably to the best interest of a railroad employee, receiving a minor injury, to return to work, thereby preserving seniority rights with his employer.

"In the minor injury cases railroads usually pay for time lost and it is felt it is better in all cases to accept such settlements than to employ lawyers. It is equally true that as time goes on, the committeemen will be familiarized with the rights of members under the law and will probably be able to assist injured members in negotiating adjustments of minor claims with reasonably satisfactory results.

[fol. 713] "In all cases where the disability is not permanent and the member is able to return to his employment, it is the belief of the undersigned that every

effort should be made to bring about amicable settlements with the railroad company. It is almost the uniform practice of the railroads of the United States to discharge an employee for employing a lawyer. It is also the practice of most railroads to refuse employment to applicants who have previously brought suit against another railroad. Age restrictions subscribed to and followed by most railroads militate against men, who have passed the prescribed age limit, who are seeking employment. We believe that by following a policy of attempting to reach fair settlements with the railroad employers of the country, taking the minor injury cases out of the hands of lawyers, we will be able to improve conditions with respect to the settlement of injury cases as they now exist.

"In cases where employees are permanently injured so that they cannot return to their former occupation, it is expected that every fair and reasonable effort will be made to adjust claims for damages direct with the railroads, either by the injured member himself or through the medium of his chosen representative among the officers and members of the Brotherhood.

"In cases where fair settlements cannot be obtained in this manner and where it appears necessary to litigate such claims, the Brotherhood will select attorneys located at strategic points in the United States, to whom injured members, and dependents of those killed, may resort for advice and assistance.

"Our agreements with these attorneys will require them to advise members without charge with a view to enabling them, or their representatives among the officers and members of the Brotherhood, to negotiate settlements direct with the railroad company. In all cases where it becomes necessary to commence suit, these regional lawyers will prosecute the cases of these members, and dependents, for a contingent fee of twenty percent of the net amount recovered in settlement of trial.

"Contracts will be entered into directly between these lawyers and the claimants on forms approved by the Legal Aid Bureau. Regional attorneys will be re-

quired to advance all necessary court costs, expert witness fees, expense of medical examinations, etc. These expenses will be deducted from the amount of the [fol. 714] recovery before a division is made of the net amount recovered. All expenses incurred in handling of claims by regional attorneys will be subject to approval by the Legal Aid Bureau. A small portion of the attorney's fee, not yet definitely determined upon, will be turned over to the Grand Lodge for the purpose of maintaining the Legal Aid Bureau. There will be no obligation upon the part of members to consult or employ regional counsel, but we believe it will be to their best interest to do so in cases where such consultation seems advisable for the reason that the Brotherhood will contract with only high class, capable and experienced railroad damage suit lawyers, and the charges in such cases will be from thirteen to thirty percent less than is now charged for similar service. "The injured member, or dependent, will at all times retain control of his case in the hands of the regional attorney, so that no settlement may be made without his approval.

"The Brotherhood will not assume any responsibility for the care and maintenance of injured members during the pendency of the adjudication of their claims. This, of course, will not interfere with the usual assistance which is given in needy cases by subordinate lodges, nor prevent members from entering into any agreements for financial assistance which they may see fit to enter into with lawyers they have employed to handle their claims.

"It must be understood that the Legal Aid Bureau will be entirely separate from the beneficiary and pension departments of the Brotherhood, and that no efforts which may be put forth by the bureau or any regional counsel to secure adequate compensation for injured men will be construed as having any relationship to the allowance or disallowance of insurance or pension claims. Regional attorneys will be required to report all settlements and verdicts to the Legal Aid Bureau, together with a statement of facts showing

cause of the injury and extent of the disability; this for the purpose of determining whether maximum results are being obtained by certain regional lawyers in certain regions as compared with those in other regions.

"The Legal Aid Bureau will periodically disseminate information to the several regional counsel, as well as to the lodges and members, bearing upon the rights of injured railroad men and the work of the bureau."

[fol. 715] 4. The Legal Aid Department of the Brotherhood maintained and maintains a central office in Cleveland, Ohio, at the national headquarters of the Brotherhood. In that office, it has a chief clerk, who is in charge of the Department, stenographers, file clerks and a research analyst. The Cleveland office of the Legal Aid Department serves as a clearing house which receives reports from all Brotherhood subordinate or local lodges of instances in which members have been injured or killed in railroad accidents. It notifies the appropriate regional counsel, and regional investigator, hereinafter referred to in more detail, of all such accidents.

5. Operating in conjunction with the Legal Aid Department were approximately sixteen lawyers, each designated by the Brotherhood as a "Regional Counsel," and assigned a zone, or région, of operation, which at times followed geographical lines, but at other times, instead, tended to follow railroad system lines. The dominant considerations in the selection of regional counsel were the Brotherhood's confidence in the ability of the attorney. Also operating in conjunction with the Legal Aid Department were a number of "Regional Investigators," whose principal function and duty was to see to it that the officers of the local or subordinate lodges reported to the Legal Aid Department instances of injury to and death of members of the Brotherhood so that the records of the Legal Aid Department would be complete. They sometimes made preliminary investigations of the facts surrounding such an injury or death. They also engaged in other activities hereinafter referred to, relating to the employment of

Regional Counsel in cases involving such injuries and deaths.

Respondent McNurlan stated that his duties as Regional Investigator were as follows:

[fol. 716] "As Regional Investigator for the Brotherhood of Railroad Trainmen, it has been my function in the case of railway accidents to members of the Brotherhood resulting in personal injuries or death to make a preliminary investigation of all such accidents coming to my attention from either the Cleveland Office of the Legal Aid Department or from a Local Lodge officer or from the Brotherhood member involved, and within my territory hereinbefore outlined, in order to: (1) gather certain necessary information and statistics on each such accident for the Cleveland Office of the Legal Aid Department on the cause of the accident, the nature and extent of the injuries and the fault, if any, upon the part of the railroad company, including any apparent violations of the Safety Appliance Act, the Boiler Inspection Act, the Air Brakes Act, the 72 Hour Law and the Hours of Service Law; (2) apprise the injured member, or the survivors in the case of death, of the existence of the various departments of the Brotherhood, including Insurance, Legal Aid and Protective Departments as they might relate to the particular circumstances of the casualty involved.

"My function as Regional Investigator also includes performing such special duties as the national President assigns to me from time to time, . . .

"It has also been part of my function to do investigative work for Regional or Legal Counsel.

"My function as Regional Investigator further includes assisting various local lodge officers and injured members of the Brotherhood in obtaining information and advice on matters pertaining to grievances, local Lodge functions and matters, state meetings, etc.

"It is further my function as Regional Investigator to answer any questions injured members, or their sur-

vivors, have respecting casualties sustained by them, that are proper for me to answer as a lay investigator, or to refer any questions, if the member desires it, that involve giving legal advice or legal counsel, to the Regional or Legal Counsel."

6. The 1930 plan for the operation of the Legal Aid Department originally was that the injured member, or survivor or representative of a member who had sustained fatal injury, would contract with regional counsel [fol. 717] for representation in a claim or case against the railroad on a 20 per cent contingent fee basis, with the agreement on the part of regional counsel to turn over one-fourth of that fee, or 5 percent of the recovery, to the Brotherhood for maintenance of the Legal Aid Department. Such contracts were to be on forms approved by the Legal Aid Department, and such regional counsel was to advance all necessary court costs, expert witness fees, expense of medical examinations, and like expenditure items. These expenses were to be deducted from the amount of recovery before a division would be made of the net sum between the regional counsel and the claimant. Subsequently, and about in the year 1938, a change was made in the contingent fee provisions so that the claimant was required to sign two contracts covering a contingent fee of 25 per cent—one contract calling for 19 per cent to the regional counsel for his services, and the other for 6 per cent to the Brotherhood for the maintenance of the Legal Aid Department, with its investigating service. As of June 15, 1946, this fee procedure was again changed so as to permit regional counsel to handle the cases on a flat 25 per cent basis, but requiring them to pay the investigators, members of the Brotherhood staff, on a quantum meruit basis, for their services. Another change in this fee and expense procedure subsequently occurred, which persisted up until the time of the filing of the instant proceeding. Under this change, regional counsel agreed with the Brotherhood to, and did, charge a 25 per cent contingent fee, and agreed to, and did, pay all court costs, medical examination fees, expert witness fees, transcript costs, cost of printing on appeals, and the total cost of

operating the Legal Aid Department. This latter item—i.e: the total cost of operating the Legal Aid Department—was apportioned among the regional counsel in the ratio [fol. 718] that the respective gross recoveries of each regional counsel bore to the total gross recoveries by regional counsel throughout the country. Periodically throughout the year the Legal Aid Department assessed each regional counsel for his proportionate share of the total cost of operating such Department, and at the end of the year each regional counsel was billed for the balance of his assessment. The Brotherhood also maintained a practice of apportioning the expenses of its conventions amongst its various "departments" on the basis of the amount of time spent in discussing, on the floor of the convention, the affairs of that department. The Legal Aid Department's share of this cost was assessed against and paid by regional counsel.

7. The Brotherhood constitution requires that the secretary of each local lodge submit to the Legal Aid Department a report on each injury or death of a member in railroad service, and blank forms were furnished to the local lodges for the making of such reports. It was the duty of the local chairman of each lodge of the Brotherhood, or some other official of such lodge, to call upon the injured member, or the bereaved family of a fatally injured member, and advise them that they were entitled to avail themselves of the benefits of the Legal Aid Department free of charge, could consult regional counsel regarding their rights arising out of the injury or death free of charge, and could employ regional counsel at a charge not in excess of 25 per cent of the amount of any recovery, and that such percentage would include expenses incidental to the investigation and litigation of the claim. These representatives of the Brotherhood's local lodges and the regional investigators recommended and urged [fol. 719] the injured member, and the families of deceased members, that their claims and cases against railroads be handled by the Legal Aid Department, and that the Brotherhood's regional counsel be employed to prosecute such claims and cases,

8. While the members of the Brotherhood were not compelled to employ regional counsel for the handling of their claims and suits, the fact that Regional Counsel had been designated, who they were, and that they were available to the Brotherhood members through the Legal Aid Department was regularly brought to the attention of the membership, not only in the manners above set out, but through the Brotherhood's publications, circulars and convention programs, and by announcements and talks on the subject made at meetings of various sorts. We note that, in two jurisdictions other than Missouri, namely; California and Illinois (Cf. *Hildebrand v. State Bar of California* (1950), 225 P. 2d 509, and *In Re Brotherhood of Railroad Trainmen* (1958), 13 Ill. 2d 391, 150 N.E. 2d 163), it has been found that the following practices were carried on in those jurisdictions under the Brotherhood's national Legal Aid Department plan, viz: the local lodge officers or representatives who made contact with the injured member, and the regional investigator, carried blank copies of contracts for the employment of regional counsel, or the firm of attorneys with which the regional counsel was affiliated; if a signed contract of employment of regional counsel was not obtained in the field, an injured member, or the representative of a deceased member, or the other interested party, were often brought to the office of regional counsel, sometimes by a regional investigator, and sometimes by some other member-representative of the Brotherhood; in such cases, the expenses of the trips were paid by regional counsel, and the expenses of the regional investigator or other member-representative (including [fol. 720] reimbursement of the latter for his time at his regular hourly wage rate) were also paid by regional counsel; and, in addition, on many occasions, the person or persons bringing an injured member, or the representative of a deceased member, to the office of regional counsel would be given a "gratuity" in money by regional counsel. However, neither of the respondents Lush, McGlynn, McNurlan, Zamarioni, Gunn or Woodson were parties to the California or Illinois proceedings.

9. The respondent Phillip B. Lush was and is a lawyer admitted to the practice of law within the State of Min-

nesota. Since May 23, 1949, he has been one of the Regional Counsel for the Brotherhood under the Legal Aid Department plan, assigned to a zone, region or territory which included portions of the State of Missouri, and mostly in western Missouri. Since February 1, 1952, he has been a member of the Brotherhood. Prior to January 1, 1956, he was a member of the law firm of Davis, Rerat, Yeager & Lush located in Minneapolis, Minnesota, and, since January 1, 1956, he has been the sole member of a law firm known as Davis & Lush, located in said city and state.

10. The respondent Dan McGlynn was and is a lawyer admitted to the practice of law in the State of Illinois, with an office in the City of East St. Louis, Illinois. Since July 1, 1954, he has been a member of the Brotherhood of Railroad Trainmen. Since May 1, 1954, he has been a Regional Counsel of the Brotherhood under the Legal Aid Department plan of the Brotherhood, and, as such, since March 1, 1956, was assigned to a zone or region of operation which included portions of the State of Missouri, mostly in eastern Missouri.

11. The respondent W. P. Kennedy, was, and now is, a member and President of the respondent Brotherhood of Railroad Trainmen, and a member of its Grand Lodge. Amongst his functions as such President were the appointment and removal of the Regional Counsel and the [fol. 721] Regional Investigators, who served at his pleasure, the determination and designation of the zone, region or territory for their operations, and the general control and supervision of the Legal Aid Department.

12. The respondents W. A. Woodson and E. G. Gunn, were, and now are, residents of the State of Missouri, members of the Brotherhood, and officers of local or subordinate lodges of the Brotherhood located in the State of Missouri. As such members and lodge officers, each performed in Missouri the duties required of them by, and conducted themselves in Missouri in accordance with, the aforesaid Legal Aid Department plan.

13. The respondent G. A. McNurlan was and is a resident of the State of Wisconsin. He has been, since October 15, 1954, a Regional Investigator for the Brotherhood under

the aforesaid Legal Aid Department plan for the zone, region or territory which coincided with the zone, region or territory of respondent Lush's operations in Missouri as Regional Counsel. In addition to being such Regional Investigator, and paid by the respondent Brotherhood as such, respondent McNurlan was employed by respondent Lush as an investigator of so-called "non-brotherhood cases," and was paid a salary and expenses by respondent Lush in that capacity.

14. The respondent Frank Zamarioni was and is a resident of the City of East St. Louis, Illinois. Since March 12, 1956, he has been a Regional Investigator for the Brotherhood under the aforesaid Legal Aid Department plan, for a zone, region, or territory which included a portion of the zone, region or territory of respondent McGlynn's operations in Missouri as Regional Counsel.

15. None of the respondents has ever been admitted to the practice of law in the state of Missouri, or authorized to practice law in said State.

[fol. 722] 16. Each subordinate lodge of the respondent Brotherhood had one or more designated persons, whose duty it was to report to the Cleveland office as aforementioned, and aid the regional investigator in contacting its injured members, or the dependents of a member who had been killed in a railroad accident, and the respondents W. A. Woodson and E. G. Gunn, among others, acted in such capacity in Missouri.

17. In the opinion of this Court, the national Brotherhood Legal Aid Department plan, as it has evolved and to the extent it has been followed and observed in Missouri, providing for contacting such injured member of the Brotherhood, or the dependents of a member who had been killed, by the representatives of the Brotherhood, including respondents McNurlan, Zamarioni, Woodson and Gunn, has been conducive to and has resulted in solicitation in Missouri of the employment of regional counsel, including respondents Lush and McGlynn, for the purpose of collecting damages against railroad companies. The Court also has been advised by the Informants, and this Court

believes, that there has, in some instances, been solicitation in fact by the respondents. This Court further finds, in this connection; that, in accordance with the Legal Aid Department plan of the Brotherhood, in some instances as a result of some contacts in Missouri on the part of the said representatives of the Brotherhood, contracts were secured with such prospective clients whereby regional [fol. 723] counsel, including respondents Lush and McGlynn, were employed to represent such clients in their claims for personal injuries or damages for death; and such regional counsel, including respondents Lush and McGlynn, acknowledge that they have in some instances with respect to such clients advanced funds for medical examination, other costs and expenses of litigation and, in some instances, would advance funds for living expenses of the clients while said action was pending.

18. The persons so contacted represented both members and non-members of the Brotherhood, and, where the client was a member of the Brotherhood, generally provided for the payment of a contingent attorney fee in the amount of 25 per cent of whatever was recovered, and in the case of non-members for a fee of $33\frac{1}{3}$ per cent of whatever was recovered.

19. Salaries and compensation paid to the respondents McNurlan and Zamarioni as Regional Investigators were paid by respondents Lush and McGlynn, either directly, or indirectly by having such sums channeled through the Legal Aid Department of the Brotherhood.

20. The aforementioned law firm of Davis & Lush, of which respondent Lush was the sole member, employed, among others, one Louis N. Crill, an attorney residing in Excelsior, Minnesota, the respondent McNurlan, another Regional Investigator named G. A. Clinkenbeard, and three stenographers named Romaine Chiorabel, Mary C. Graham, and Joy Shughart. During the period from March 1, 1956, to February 15, 1959, there was maintained at Room 508 Wirthman Building, 3100 Troost Avenue, Kansas City, Missouri, an office which was designated upon its door, upon the building directory, and in the Kansas City telephone directory, as "Brotherhood of Railroad Train-

men, Investigation Office." The business in said office was [fol. 724] conducted by respondent Lush, and the employees of his law firm just above mentioned. Some correspondence was carried on from there on the letterhead of respondent Lush's Minneapolis law firm. There was available there, as well as in the possession of McNurlan, a form of letter, which in the opinion of the Informants here amounts to a form of contract and which respondent Lush acknowledges amounts to a "form of offer to contract," as follows:

"Davis and Lush
604 Baker Building
Minneapolis, Minnesota

Gentlemen:

I would like to have you represent me in my claim against the Railroad Company arising out of my accident on

I am willing to pay you twenty-five per cent of the amount recovered by settlement or suit, plus court costs and witness fees, but not including your expenses.

If you agree to handle my case on this basis I want it understood that you will not settle my case without my consent and that the check will be made payable to me.

If you are willing to handle my case on this basis, please sign the extra copy of this letter and return it to me.

Yours very truly,"

These letter forms were frequently completed, by the filling in of the appropriate blank spaces and being signed, by persons having claims against railroad companies, and, when executed by said persons were forwarded to Minneapolis for acceptance by respondent Lush. All of the expenses of said office in Kansas City, in the aggregate amount of at least \$23,268.15 (exclusive of salary paid McNurlan), were paid by respondent Lush, or his law firm of Davis & Lush.

[fol. 725] 21. The respondent Lush paid to the Brotherhood, as his share of the expense of operation of the Legal Aid Department, a total of \$31,825.68 during the period from January 1, 1956, to March 25, 1960. The respondent McGlynn paid to the Brotherhood, for such purpose, a total of \$8,622.00 during the period from August 1, 1955, to March 3, 1958.

22. Since January 1, 1956, the respondent Lush was employed by at least 27 residents of Missouri, all but one of whom resided in western Missouri, to represent them in claims against railroad companies arising out of injuries or death. Since March 1, 1956, the respondent McGlynn was employed by at least 12 persons, residents of or who were injured in eastern Missouri, to represent them in claims against railroad companies arising out of injuries.

23. The respondents, and each of them, represent that they are fully cognizant with the decision of the Supreme Court of Illinois in the case of *In Re Brotherhood of Railroad Trainmen* (1958) 13 Ill. 2d 391, 150 N.E. 2d 163, 167 (5), wherein it was said:

"The objective of the Brotherhood in seeking to secure competent legal representation of its members can be accomplished without lowering the standards of the legal profession. The Brotherhood has a legitimate interest in investigating the circumstances under which one of its members has been injured. That interest antedates the occurrence of any particular injury. We are of the opinion that the Brotherhood may properly maintain a staff to investigate injuries to its members. It may so conduct those investigations that their results are of maximum value to its members in prosecuting their individual claims, and it may make the reports of those investigations available to the injured man or his survivors. Such investigations can be financed directly and without undue burden by the 218,000 members of the Brotherhood.

"The Brotherhood may also make known to its members generally, and to injured members and their survivors in particular, first, the advisability of obtaining legal

[fol. 726] advice before making a settlement and second, the names of attorneys who, in its opinion, have the capacity to handle such claims successfully. Its employees, however, may not carry contracts for the employment of any lawyer, or photostats of settlement checks. No financial connection of any kind between the Brotherhood and any lawyer is permissible. No lawyer can properly pay any amount whatsoever to the Brotherhood or any of its departments, officers or members as compensation, reimbursement of expenses or gratuity in connection with the procurement of a case. Nor can the Brotherhood fix the fees to be charged for services to its members. The relationship of the attorney to his client must remain an individual and a personal one."

24. The respondents, and each of them, have represented that they presently are not engaging in any of the practices condemned in the above quoted decision, nor in any of the improper practices hereinbefore referred to and set forth, and that they will not engage in any such practices in Missouri at any time in the future; therefore, and thereupon, the Informants, consisting of the Advisory Committee of the Missouri Bar Administration, have dismissed their Information with respect to contempt as to all respondents, and the Citation to show cause why respondents should not be punished for contempt should be withdrawn as to all respondents without prejudice.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED:

I. That, as to the respondent C. R. Maher, only, who was never served with process, this cause is dismissed without prejudice.

II. That, the Information and Citation, insofar as the same relate to contempt, be, and the same are hereby, dismissed as to each respondent, without prejudice.

III. That in the procurement, within the State of Missouri, of the employment of a lawyer to render any legal services, the respondents Brotherhood of Railroad Train-

men, W. P. Kennedy, G. A. McNurlan, Frank Zamarioni, W. A. Woodson, and E. G. Gunn, and all persons in any way or in any manner acting by, through and under them [fol. 727] or either of them, are hereby jointly and severally permanently enjoined and restrained from, in any way or in any manner:

- a. Telling any person or his representatives that said person has a cause of action, the amount he is entitled to recover, where suit should be filed, or doing any other act or thing which constitutes the practice of law within the State of Missouri;
- b. Negotiating or attempting to negotiate contracts of employment for legal services on behalf of any lawyer or lawyers;
- c. Accepting pay or any gratuity or benefit whatsoever, directly or indirectly, from any lawyer, person or organization for services in obtaining contracts of employment for legal services;
- d. Either personally or for or on behalf of any other person, loaning or advancing or promising to loan or advance money to any person or his representative pending trial or settlement of his claim or suit;
- e. Displaying, exhibiting, or showing copies or photographs of checks, releases, newspaper accounts or other data concerning settlement made on behalf of other claimants for the purpose of inducing any person, or his representatives, or which may tend to induce said person, to enter into contracts for the legal services of any lawyer;
- f. Making unsolicited calls upon any person for the purpose of soliciting contracts for the employment of a lawyer by such person, or for the purpose of recommending or urging the employment of a lawyer by such person;
- g. Conspiring with any resident or nonresident lawyer to violate the laws of Missouri concerning the practice of law within the State of Missouri, or the Canons of Legal Ethics imposed by the Supreme Court of

Missouri on lawyers licensed to practice law in the State of Missouri;

h. Violating or aiding or abetting the violation of the provisions of paragraphs IV and V of this decree.

IV. That in the procurement, within the State of Missouri, of employment of him to render legal services, the [fol. 728] respondent Phillip B. Lush as an individual and as a lawyer admitted to the practice of law within the State of Minnesota, and all persons acting by, through or under him, in any way or in any manner, either personally or by or through an agent, servant, employee, partner, or associate are hereby jointly and severally enjoined and restrained from in any way or in any manner:

a. Soliciting employment as a lawyer in the State of Missouri;

b. Paying any person, either directly or indirectly, for services rendered within the State of Missouri in obtaining or soliciting such employment of him, or accepting any such employment or any benefit derived from any such solicitation;

c. Premising to loan or advance, or loaning or advancing, money to any person or persons at any time for the purpose of inducing said person or persons to employ said respondent, either jointly or severally;

d. Communicating in any way with any person for the purpose of soliciting such employment;

e. Violating the laws of Missouri concerning the practice of law within the State of Missouri or Canons of Legal Ethics imposed by the Supreme Court of Missouri, required of and observed by resident lawyers licensed in the State of Missouri;

f. Conspiring to violate the laws of the State of Missouri or the Canons of Legal Ethics imposed by the Supreme Court of Missouri on lawyers licensed to practice in the State of Missouri;

g. In any way or in any manner violating or aiding and abetting the violation of the provisions of Paragraph III of this decree.

V. That in the procurement, within the State of Missouri of employment of him to render legal services, the respondent Dan McGlynn as an individual and as a lawyer admitted to the practice of law in the State of Illinois, and all persons acting by, through or under him, in any way or in any manner, either personally or by or through an [fol. 729] agent, servant, employee, partner or associate, are hereby jointly and severally enjoined and restrained from in any way or in any manner:

a. Soliciting employment as a lawyer in the State of Missouri;

b. Paying any person, either directly or indirectly, for services rendered within the State of Missouri in obtaining or soliciting such employment of him, or accepting any such employment or any benefit derived from any such solicitation;

c. Promising to loan or advance, or loaning or advancing, money to any person or persons at any time for the purpose of inducing said person or persons to employ said respondent, either jointly or severally;

d. Communicating in any way with any person for the purpose of soliciting such employment;

e. Violating the laws of Missouri concerning the practice of law within the State of Missouri or Canons of Legal Ethics imposed by the Supreme Court of Missouri, required of and observed by resident lawyers licensed in the State of Missouri;

f. Conspiring to violate the laws of the State of Missouri or the Canons of Legal Ethics imposed by the Supreme Court of Missouri on lawyers licensed to practice in the State of Missouri;

g. In any way or in any manner violating or aiding and abetting the violation of the provisions of Paragraph III of this decree.

VI. The respondent Brotherhood of Railroad Trainmen, its officers, employees and representatives; and all persons in any way or in any manner acting by, through or under it, are hereby permanently restrained and enjoined

from in any way or in any manner fixing the fees of any lawyer or lawyers for services rendered to its members, or dependents or personal representatives of deceased members.

VII. The respondent Brotherhood of Railroad Trainmen, its officers, employees and representatives, and all [fol. 730] persons in any way or in any manner acting by, through or under it, are hereby permanently restrained and enjoined from having any financial connection with any lawyer or lawyers wherein or whereby such lawyer or lawyers in any way or in any manner would support or maintain the Legal Aid Department, or any similar department or bureau, of said Brotherhood.

VIII. That costs of this proceeding are hereby taxed against the respondents.

BY THE COURT:

/s/ LAURANCE M. HYDE
Chief Justice
Supreme Court of Missouri

The foregoing CONSENT DECREE is approved as to content and form.

/s/ ROBERTS P. ELAM and
GEORGE S. HECKER
Attorneys for Informants

/s/ LYMAN FIELD—CLAY C. ROGERS
Attorney for respondents
Phillip B. Lush and G. A. McNurlan

/s/ DANIEL P. REARDON
Attorney for respondents Brotherhood
of Railroad Trainmen, W. P. Kennedy,
W. A. Woodson, E. G. Gunn, Dan McGlynn and Frank Zamarioni

STATE OF MISSOURI—SCT.:

I, MARION SPICER, Clerk of the Supreme Court of Missouri, do hereby certify that the foregoing is a true copy of the consent decree of said Court, entered on the 14th day of November, 1960, as fully as the same appears of record in my office.

(Seal) IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Supreme Court. Done at office in the City of Jefferson, State aforesaid, this 21st day of September, 1961.

/s/ MARION SPICER, Clerk.

[fol. 731]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 31

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF JACKSON
IN CHANCERY

THE STATE BAR OF MICHIGAN,

Plaintiff,

—VS—

THE BROTHERHOOD OF RAILROAD TRAINMEN, FRANK J. CARR,
L. M. HASBROUCK, RAYMOND FIEBERKORN, THOMAS W.
FLETCHER, W. C. CORYELL, L. E. SINGER, E. V. SURDAM,
H. F. MCCALL, R. J. JOHNSON, L. A. RUSSELL, A. V.
GRANDSTAFF, W. T. ELLSWORTH, R. J. SNOW, and WILLIAM
E. B. CHASE, and all other members, agents and officers
of the Brotherhood of Railroad Trainmen in the State
of Michigan,

Defendants.

BILL OF COMPLAINT

T-640

The State Bar of Michigan respectfully represents unto
this Honorable Court:

2.

That the Brotherhood of Railroad Trainmen is a national railway labor organization, with principal office in Cleveland, Ohio, but having branches, members, officers and agents throughout the United States, including the State of Michigan.

.

[fol. 732]

6.

Plaintiff is further informed and believes, and therefore alleges as true, that representatives of the Brotherhood of Railroad Trainmen are reimbursed for their time in bringing injured employees or the survivors of the deceased employees to the offices of the Regional Counsel. Reimbursement is at the member representative's hourly rate of pay on the railroad. Member representatives are also reimbursed for any out-of-pocket expenses incurred in bringing injured employees or the survivors of deceased employees to Regional Counsel.

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[fol. 733]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 31

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF JACKSON
IN CHANCERY

THE STATE BAR OF MICHIGAN,

Plaintiff,

vs.

THE BROTHERHOOD OF RAILROAD TRAINMEN, FRANK J. CARR,
L. M. HASBROUCK, RAYMOND FIEBERKORN, THOMAS W.
FLETCHER, W. C. COBYELL, L. E. SINGER, E. V. SURDAM,
H. F. MCCALL, R. J. JOHNSON, L. A. RUSSEL, A. V.
GRANDSTAFF, W. T. ELLSWORTH, R. J. SNOW, and WILLIAM
E. B. CHASE, and all other members, agents and officers
of the Brotherhood of Railroad Trainmen in the State
of Michigan,

Defendants.

BILL OF COMPLAINT

T-640

ANSWER TO BILL OF COMPLAINT

Now come the defendants by EDWARD B. HENSLEE, JR.,
MARTIN K. HENSLEE, JOHN J. NAUGHTON and ARTHUR
LUMLEY, their attorneys, and for answer to the Bill of
Complaint say:

1.

Defendants admit the allegations of paragraphs one and
two of the Bill of Complaint.

[fol. 734]

3.

Defendants admit that in the year 1930 the Trainmen organized and established a department of the Trainmen designated as the "LEGAL AID DEPARTMENT". Defendants admit that the representations alleged were stated, along with other representations, as factors to be considered in deciding whether a legal aid department should be established. Defendants deny all other allegations of paragraph four of the Bill of Complaint.

Defendants aver that on a referendum questionnaire and ballot in 1930, the members of the lodges of the Trainmen in the United States voted by a majority vote of eleven to one that a legal aid department should be organized.

Defendants further aver that the said Legal Aid Department was thereupon organized as a part of or department of the defendant Trainmen and, as constituted, was directly subject to the provisions of the Constitution of the Trainmen and to the authority of the president of the Trainmen.

Defendants further aver that the title of the said Legal Aid Department was changed by order of the president of the Trainmen on or about January 1, 1959 and was redesignated as the "DEPARTMENT OF LEGAL COUNSEL". Defendants aver that the title of the attorneys designated for the several regions was at the same time [fol. 735] changed from "Regional Counsel" to their present designation as "Legal Counsel".

4.

Defendants aver that in many cases, but not in all, a member of the defendant Trainmen calls upon, contacts, or in some other manner explains to an injured member employee, or his bereaved family, the advisability of obtaining a lawyer, or the opinion of a lawyer, and recommends that they consult with the Legal Counsel designated, and further recommends that the Legal Counsel be retained if a lawyer is to be retained. Defendants further aver that some of the said members have represented, as was the fact in most cases arising in the Lower Peninsula

of the State of Michigan, that the legal counsel will not charge in excess of twenty-five percent (25%) of the amount of any recovery whether the recovery be effected by suit or settlement, and that this percentage would include expenses incidental to the investigation and any litigation of the claim.

Defendants further aver that this representation of the fee charged has been eliminated by order of the president of the Trainmen contained in his letter to all lodges dated March 16, 1959, effective April 1, 1959, hereinafter set out in the FIRST AFFIRMATIVE DEFENSE to this answer.

5.

Defendants admit the allegations of paragraph six of the Bill of Complaint as being in existence up to and including the 31st day of March, A.D., 1959.

[fol. 736] Defendants further aver that the said compensation and reimbursement has been terminated under the previously mentioned order of the president of the Trainmen dated March 16, 1959.

6.

Legal Counsel referred to above are attorneys designated by the defendant Trainmen in some seventeen regions designated by the said defendant as attorneys recommended for their qualifications and their integrity to be competent to prosecute claims arising under the Federal Employers' Liability Act for members of the trainmen in their designated regions.

7.

Defendants . . . they admit the Edward B. Henslee referred to at one time was the Regional Counsel for a region including the Lower Peninsula of the State of Michigan and that he had associates. Defendants further aver that the said Edward B. Henslee died on November 22, 1958.

[fol. 737]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 32

S. R. HARVEY

ELH:BH

Jan. 18th. 1937

Mr. A. E. Schwing,
Journal Department.

Dear Sir and Brother:—

Would you kindly add to the list of Regional Counsel appearing in The Railroad Trainman for the month of February the name of Bernard M. Savage, 521 Title Bldg. St. Paul & Lexington Sts. Baltimore, Md., his name to continue in all future issues of The Trainman, until notified to the contrary.

Faternally yours,

E. L. Harrigan
Deputy President

[fol. 738]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 33

ELH:BH

Jan. 19, 1937

Mr. Bernard M. Savage, Atty.,
521 Title Bldg.,
St. Paul & Lexington Sts.,
Baltimore, Md.

Dear Mr. Savage:—

I am pleased to advise that President Whitney has authorized me to notify you in accordance with the recom-

mendation I made to him a short time ago, that he has decided to appoint you as Regional Counsel for the Legal Aid Department of the Brotherhood of Railroad Trainmen in Baltimore.

I am enclosing herewith two copies of what we have chosen to term Rules and Regulations Governing Regional Counsel. If these are agreeable to you, will you kindly note your acceptance on one of the copies and return it to us.

All of the literature which we have published has been gotten out with the idea that we will have no hesitancy in having the railroad or others know just what our plan is. In fact, this literature has been quite freely circulated among railroad managements. We have, however, refrained from referring to the amount of attorneys' fees and the amount which is to be turned back to the Brotherhood, because we feel that this is a matter which concerns the Legal Aid Department and Regional Counsel alone, and which may be subject to change as time goes on and indications develop that such changes are warranted. The total amount to be charged to the client is 25% of the net amount recovered by suit or settlement. 6% of this amount is to be paid to the Brotherhood for the purpose of maintaining the Legal Aid Department and the investigating staff. In arriving at the net amount referred to, we generally leave that to the discretion of the Regional Counsel. In most instances witness fees, filing fees and the court costs are deducted from the gross, and then Regional Counsel is to receive 19% of the net and the Brotherhood 6% of the net.

I am enclosing herewith three sample contracts that we suggest be used when injured members of the organization, or the dependents of those who may be killed, authorize Regional Counsel to represent them, setting forth their agreement to pay the Brotherhood for investigation expense, etc. The sample copy of contract proposed for attorneys may be revamped as you see fit—it happens to be [fol. 739], the form used by certain other regional counsel at present. The other three forms to be used for the Brotherhood contracts, we have designated as, "No. 1, No. 2 and

No. 2-B"—No. 1 to be used by a member of the Brotherhood who is injured in the service, No. 2 to be used by the widow or dependents of the deceased, in case of death where an administrator has not been appointed, and No. 2-B, is to be signed where there has been an administrator or executor of the estate appointed. When such agreements have been executed, it is perfectly proper, when a case is settled, for Regional Counsel to have the client authorize him to pay to the Brotherhood the amount due it under the contract, and I am attaching hereto copy of a letter received from our Regional Counsel in Los Angeles, showing the form which he uses in forwarding to the Brotherhood the amount due it, and which he has been authorized by the client to pay.

It should, of course, also be clearly understood that all cases involving Brotherhood members, which are either brought directly to the Regional Counsel by the claimants themselves or by officers or members of the Brotherhood, as well as those which are referred to counsel by the Department, shall be considered as Brotherhood cases. We feel that this is necessary because we are advising our members that they may go direct to counsel if they choose, rather than to take the matter up with this Department.

You will note that the Rules and Regulations provide that the Department will undertake to make an investigation in all cases where the same is deemed advisable.

I am also enclosing herewith copies of two letters written by Mr. Tom J. McGrath our General Counsel, when he formerly managed the Legal Aid Department, in accordance with the instructions issued by President A. F. Whitney. You will kindly follow the suggestions contained in these letters, which are self explanatory.

I am also enclosing a directory for your information and as stated in foregoing, if you agree to the rules and regulations, would you kindly affix your signature to one copy and return the same for our file?

Your name will also appear in the February issue, and all succeeding issues of The Railroad Trainman, in the list of Regional Counsel appearing under the heading "Legal Aid Department".

With my very best wishes for your future success as Regional Counsel at Baltimore, and assuring you of our desire to cooperate and assist you in any way we can, I am,

Very truly yours,

E. L. Harrigan
Deputy President

encls.

[fol. 740]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 34

(Letterhead of Bernard M. Savage, Baltimore, Md.)

February 6, 1937.

Brotherhood of Railroad Trainmen,
B. of R. T. Bldg.,
820 Superior Ave., West,
Cleveland, Ohio.

Att: Mr. E. L. Harrigan, Deputy President.

Gentlemen:

I am in receipt of your letter of February 4th advising me of my appointment as regional counsel in Baltimore for the legal aid department of the Brotherhood of Railroad Trainmen. Permit me to express my sincere appreciation for this appointment, and I will do all in my power to conduct myself in this capacity in a way which will reflect credit upon the legal aid department of the Brotherhood.

In accordance with your suggestion, I am noting my acceptance on one of the copies of the rules and regulations governing regional counsel, which I am enclosing herewith.

Many thanks for your good wishes for my future success and offers of cooperation and assistance.

Yours very truly,

/s/ BERNARD M. SAVAGE

BMS:HS
encl.

[fol. 741]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 35

RULES AND REGULATIONS GOVERNING RELATIONS OF
REGIONAL COUNSEL AND THE BROTHERHOOD OF RAIL-
ROAD LEGAL AID DEPARTMENT

Regional lawyers will be selected in various railroad centers of the United States with a view to rendering the service contemplated by the establishment of the Legal Aid Department with the greatest degree of efficiency, keeping in mind the convenience of members and total membership in a given district so as to give regional lawyers a reasonable assurance of sufficient volume of Brotherhood business to warrant the rendering of proper service on the basis of compensation agreed upon.

When the regional lawyers are selected, and from time to time thereafter, articles will be published in the Trainmen's journal informing members of the services rendered by the Legal Aid Department and advising them also of the names and addresses of the regional lawyers.

When members are injured, either they or proper officers of their grievance committees or subordinate lodges, acting on their behalf, or in cases of the accidental death of members, their dependents, may write or call on the Legal Aid Department personally for information and advice as to their legal rights. They will be required to furnish, as nearly as possible, a full and complete statement of all of the facts surrounding the accidental death or injury. This will include written statements of witnesses, whenever and wherever obtained. Injured members, where there is any question as to the nature and extent of the disability, will be required to furnish statements from medical examiners.

In all major injury or death cases, upon request of the injured man or dependent, or an officer of the Brotherhood authorized to represent the claimant, an investigator employed by the Legal Aid Department will be assigned to investigate and ascertain the facts surrounding the accident or death. Reports of such investigation will be filed with the Department and when any such cases are referred to or brought to the regional counsel copies of such reports will be sent to them. The Legal Aid Department will endeavor to provide means for securing promptly, after the occurrence of all accidental injuries or deaths, the name and address of the injured members or dependents, as well as the character of the injury, so that the claimants may be expeditiously informed that the services of the Department and of regional counsel are at his or her disposal.

Members and their dependents, upon request therefor, will be advised as to the best course to pursue, in the judgment of the Legal Aid Department, to effect a settlement, [fol: 742] including advice as to what amount in the judgment of the Department, would constitute a fair settlement of the claim. The affairs of the Legal Aid Department will be conducted with the thought in mind primarily of encouraging amicable settlement, particularly in cases where total and permanent injury has not been sustained.

Requests for information and advice in minor cases will be discouraged in order to prevent the burden imposed on the Legal Aid Department from becoming unduly heavy and thereby unreasonably expensive.

In cases where close questions of liability are involved and intricate detailed information is essential to a proper determination of a member's rights, he may be referred to the regional attorney of his district. It will be the duty of this attorney to counsel with and advise the injured member with a view to enabling him or his Brotherhood representatives to effect a fair settlement. The Legal Aid Department will insist that regional lawyers in such cases advise members solely with a view to promoting the best interests of the members. Any over-reaching on the part of regional lawyers intended to induce members to sign contracts of employment will be discountenanced. In brief,

the Legal Aid Department will expect the regional lawyers to advise members of the Brotherhood in exactly the same way as they would advise a client who came in to them and paid for legal advice.

The Legal Aid Department will endeavor, through the medium of the Trainmen's journal and circulars periodically sent to officers and lodges, to keep the membership advised as to the names and addresses of regional counsel in their respective districts. It is anticipated that members and dependents, or lodge officers representing them, may go direct to regional counsel for information and advice, and all such cases will be handled by regional counsel in the same manner as if referred to them by the Legal Aid Department. In any such cases where major injuries are involved, a Legal Aid Department investigator will, at the request of the regional counsel, be assigned to investigate such cases, making a report in duplicate, one copy to the regional counsel and one copy to the Legal Aid Department.

In cases where members have exhausted their efforts in attempts to procure settlement; they will be referred to regional attorneys, with whom contracts may be made for the prosecution of their claims. It must be understood that the Brotherhood cannot undertake to control the actions of members in this regard, and that they will remain free to employ attorneys of their own choice. It is felt, however, that if the Brotherhood selects attorneys of outstanding [fol. 743] ability in their particular field of endeavor, that fact, together with the further fact that contracts will call for compensation substantially below that now charged for like service, will be sufficient inducement to attract a great majority of our members to regional counsel. Where it becomes necessary for members or their dependents to employ counsel, the regional attorneys shall enter into a contract with the claimant calling for the payment of a contingent fee of nineteen percent (19%) of the net amount recovered in suit or settlement, and at the same time the claimant shall enter into a contract with the Brotherhood agreeing to pay six per cent (6%) of the net recovery to reimburse the Legal Aid Department for investigation expense.

It will be incumbent upon regional counsel to provide all necessary medical examinations, after a contract has been signed, and to pay the fees and charges incident to the employment of expert witnesses, as well as court costs and other expenses incident to the prosecution of the claim, such expenses to be deducted from any recovery made in the particular case in connection with which the expense is incurred.

Regional attorneys will be required to report all cases handled by them in which a contract has been entered into with members of the Brotherhood, setting forth a statement of the facts involved, together with the amount of settlement or verdict received.

Regional counsel will be privileged to advise with the Legal Aid Department on questions of law, and it will be the policy of the department to disseminate information gathered from the several regional districts among all the regional counsel of the Brotherhood from time to time.

It will be understood that members will have control of their cases in the hands of regional counsel, and that no settlement of any case can be made without the consent of the client.

While the membership will be advised as to the names and addresses of regional counsel for their particular line of railroad, it will be impossible to control their choice of attorneys, and each member or dependent will have the option, either for reasons of choice or convenience, to consult with or employ any regional counsel. All cases involving injuries or death to members of the Brotherhood, either brought or referred to regional counsel, shall be considered as Brotherhood cases. The same rule shall apply in either personal injury or death cases which may be referred to counsel by the Legal Aid Department or its investigators.

APPROVED: /s/ BERNARD M. SAVAGE

[fol. 744]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 36

October 12, 1949.

WPK:SCL:VN

Mr. Bernard M. Savage,
Regional Counsel,
517 Title Building,
Baltimore, Maryland.

Dear Mr. Savage:

Effective October 15, 1949, the letter of former President A. F. Whitney, under date of January 19, 1937, appointing you as regional counsel for the Brotherhood of Railroad Trainmen and your appointment thereunder as such, as hereby canceled and terminated.

Thanking you for the manner in which you have represented injured members of the Brotherhood, and the dependents of deceased members, since your appointment, I am

Sincerely yours,

/s/ W. P. KENNEDY
President.

cc:

Mr. S. C. Lush, Manager,
Legal Aid Department.

[fol. 745]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 37

October 12, 1949.

WPK:SCL:VN

Mr. Bernard M. Savage,
Regional Counsel,
517 Title Building,
Baltimore, Maryland.

Dear Mr. Savage:

Because of your experience and outstanding success in handling cases for our members who have been injured, and for the dependents of those killed while employed on the railroad, and having full knowledge of your honesty and integrity, I have decided to reappoint you regional counsel for the Brotherhood of Railroad Trainmen, effective October 15, 1949, within the same territory in which you served under your former appointment.

Sincerely yours,

/s/ W. P. KENNEDY
President.

cc:

Mr. S. C. Lush, Manager,
Legal Aid Department.

[fol. 746]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 42

Re: C. M. Carson—Lodge 858

March 14, 1955

Mr. A. L. Allen, S&T
P. O. Box 266
Victoria, Virginia

Dear Brother Allen:

Thank you for sending us your report covering Brother C. M. Carson's injuries, and which are of such seriousness that he should not discuss his case and the manner in which the accident happened with any representative of the railroad until his rights under the law have been explained to him.

Your LA-1 reports lists the date of injury as April 5, will you please advise us what is the correct date.

Legal Counsel B. M. Savage is receiving a copy of this letter and undoubtedly a Regional Investigator will get in touch with Brother Carson at an early date. In the meantime, I hope you will find it convenient to contact Brother Carson or some member of his family, and advise him of the existence of the Legal Aid Department and its function, and be sure to caution him against giving any statement if he has not already done so, until he has been advised as to his rights under the law, as you, of course, know that claim agents are employed by the railroads for the express purpose of keeping from injured employees a considerable part of the money due them under the law. And one of the methods used for bringing this about is for the claim agent to secure a statement at an early date worded in such a way as to show that the injury was not as a result of any fault of the railroad.

The claim agents are experts at wording statements so that the injured employee does not realize that his legal rights are being harmed considerably by the manner in which the statement is worded; and being injured he per-

haps will not give too much thought to the exact wording of the statement as long as it gives the general idea as to how the accident happened.

Assuring you that was, indeed, sorry to learn of the serious injuries sustained by Brother Carson, and looking forward to hearing from you when there are further developments, I am

Fraternally yours,

C. R. MAHER, Chief Clerk
Legal Aid Department

CRM:ds

cc: Mr. C. M. Carson, member
Mr. B. M. Savage, Legal Counsel—A

[fol. 747]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 42-A

March 15, 1955

Mr. C. R. Maher, Chief Clerk
Legal Aid Department
Brotherhood of Railroad Trainmen
1370 Ontario Street
Cleveland 13, Ohio

Re: Charles M. Carson—Lodge 858

Dear Brother Maher: ●

I have been employed to represent Brother Carson through his son, George M. Carson, copies of letter of employment and F-LA-2 enclosed herewith.

Will keep you advised of developments.

Fraternally yours,

/s/ BERNARD M. SAVAGE

BMS:T
Enc. (2)

[fol. 748]

PLAINTIFF'S EXHIBIT 44

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

Re: W. H. Cobb—Lodge 389

October 3, 1955

Mr. C. C. Harrill, Jr., Sec.
507 Arnold Avenue
Richmond 22, Virginia

Dear Sir and Brother:

Thank you for sending us your report covering Brother W. H. Cobb's injury on September 27, 1955.

In view of the serious complications often associated with the type of injury, Brother Cobb should be examined and receive advice as to the extent of his injuries by a competent doctor who is in no way connected with the railroad; and it is also important that he get information about his rights under the Federal Employers' Liability Act before discussing his case with any railroad representative, as this law governs the rights of the men who are injured and the dependents of those killed while on railroad duty.

Legal Counsel Bernard M. Savage, 2900 Mathieson Building, Baltimore & Light Streets, Baltimore, Maryland, will receive a copy of this letter and will be glad to give information and advice to Brother Cobb, as well as the name of a doctor upon whose integrity and judgment he may fully depend, as part of the service of this department to which he is entitled as a member of the Brotherhood. This information will prove valuable to him in securing a fair settlement sufficient to compensate him or his injuries.

Kindly advise when there are further developments.

Fraternally yours,

C. R. MAHER, Chief Clerk
Legal Aid Department

CM:rl

cc: Mr. B. M. Savage, Legal Counsel—R
Mr. W. H. Cobb, member

[fol. 749]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 50

August 10, 1954

Re: William B. Fauntleroy—Lodge 898

Mr. D. C. Hughes, Sec.
1203 Colonial Avenue
Alexandria, Va.

Dear Sir and Brother:

Thank you for sending us your report covering Brother William B. Fauntleroy's injury on July 7, 1954.

Because of the serious complications often associated with Brother Fauntleroy's type of injury, I would suggest that he refrain from returning to work until he is examined and receives advice as to the extent of his injury by a competent doctor who is in no way connected with the railroad. Legal Counsel B. M. Savage will be happy to recommend to Brother Fauntleroy such a doctor in whose ability and integrity of judgment Brother Fauntleroy may have complete confidence. Too often employees with similar injuries return to work before they have completely recovered only to find later on that they are going to have further difficulty.

I am sending a copy of this letter to Legal Counsel B. M. Savage, 2900 Mathieson Building, Baltimore and Light Streets, Baltimore, Maryland, and am sure that he will be glad to advise Brother Fauntleroy as to his rights under the law.

Kindly advise when there are further developments.

With best wishes, I am

Faternally yours,

C. R. MAHER, Chief Clerk
Legal Aid Department

CRM:ds

cc: Mr. W. B. Fauntleroy, member
Mr. B. M. Savage, Legal Counsel—R

[fol. 750]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 50-A

(Letterhead of Bernard M. Savage, Baltimore 2, Md.)

August 17, 1954

Mr. C. R. Maher, Chief Clerk
Legal Aid Department
Brotherhood of Railroad Trainmen
1370 Ontario Street
Cleveland 13, Ohio

-Re: William B. Fauntleroy—Lodge 898

Dear Brother Maher:

Our mutual friend, Brother Louis Dyer, General Chairman on the RF&P, informs me that Fauntleroy is still in a body cast and when this is removed he will have to wear a brace. He feels sure that the Department will handle the case but Fauntleroy is in no hurry to push the matter yet as he wants to see how he gets along.

Will keep you advised of developments.

Fraternally yours,

/s/ BERNARD M. SAVAGE

BMS:T

889
[fol. 751]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 50-B

(Letterhead of Bernard M. Savage, Baltimore 2, Md.)

26 November 1954

Mr. C. R. Maher, Chief Clerk
Legal Aid Department
Brotherhood of Railroad Trainmen
1370 Ontario Street
Cleveland, 13, Ohio

Re: W. B. Fauntleroy—Lodge 898

Dear Brother Maher:

Wish to advise that Brother Fauntleroy has employed the Department to handle his claim for him, copies of contract and F-LA-2 are enclosed herewith.

Will keep you advised of developments.

Fraternally yours,

/s/ BERNARD M. SAVAGE

BMS:I

Encl. (2)

[fol. 752]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 62

June 19, 1958

Re: Clint B. Smith—Lodge 533

Mr. Bernard M. Savage
Legal Counsel

Dear Brother Savage:

On April 15, 1958, I furnished you a report covering the injury of the above member, but to date I have had no further information from you as to the status of this case.

Thanking you for this information at your earliest convenience, I am,

Fraternally yours,

C. R. MAHER, Chief Clerk
Legal Aid Department

CRM:veb

[fol. 753]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 62-A

(Letterhead of Bernard M. Savage, Baltimore 2, Md.)

August 15, 1958

Mr. C. R. Maher, Chief Clerk
Legal Aid Department
Brotherhood of Railroad Trainmen
1370 Ontario Street
Cleveland, 13, Ohio

Re: Clint B. Smith—Lodge 533

Dear Brother Maher:

Wish to advise that Brother Smith has employed the Department to handle his claim, copy of F-LA-2 and contract being enclosed.

Will keep you advised of developments.

Fraternally yours,

/s/ BERNARD M. SAVAGE
Bernard M. Savage

BMS:RT

Enc. (2)

CASES IN THE STATE OF VIRGINIA

| <u>Name</u> | <u>Address</u> | <u>Date of Injury</u> | <u>Railroad</u> |
|--------------------------------------|---|-------------------------------------|------------------|
| Ballance, Selby E. | 1105 Cunningham Rd. Norfolk, Virginia | March 29, 1957 | N. & W. |
| Doyle, L. E. | 1202 Das Meines Ave. Portsmouth, Virginia | October 20, 1956 | N.A.P. Balt Line |
| Evans, Robert L. | 104 E. Oxford Ave. Alexandria, Virginia | June 17, 1956 | R. F. & P. |
| Fahnestock, Leonard | 16 E. Ballefonte Ave. Alexandria, Virginia | February 2, 1957 | Southern Ry. |
| Griffin, Wilbur G. | Carrollville, Virginia | November 12, 1956 | N. & W. |
| * Johnson, Edward F. (2 injuries) | 703 - 5th Avenue Portsmouth, Virginia | December 12, 1955 August 9, 1956 | N.A.P. Balt Line |
| Kilgore, James H. | 408 Spotswood Ave. Norfolk, Virginia | August 15, 1956 | N. & W. |
| * Murphy, Billy O. (2 injuries) | 619 London Street Portsmouth, Virginia | December 5, 1955 July 31, 1956 | N.A.P. Balt Line |
| Nethery, Donald | 302 George Drive Portsmouth, Virginia | August 22, 1957 | N.A.P. Balt Line |
| Oakes, John R. | 875 Halstead Lane Norfolk, Virginia | November 1, 1956 | N. & W. |
| Reynolds, Frank H. | 2121 Oregon Ave. Portsmouth, Virginia | May 14, 1956 | N.A.P. Balt Line |
| Wells, Thomas J. | 8429 Hillard Street Norfolk, Virginia | February 19, 1958 | N. & W. |
| ** Burnett, B. T. (Deceased) | Route # 4, Box 328 Danville, Virginia | November 14, 1958 | Southern Ry. |

* With the exception of these two injury cases. any cases prior to 1955

[fol. 754]

IN THE CHANCERY COURT OF
CITY OF RICHMOND, VIRG.
PLAINTIFF'S EXHIBIT 67

| Norfolk, Virginia | | | |
|--------------------------------------|---|-------------------------------------|------------------|
| Boyle, L. E. | 1222 Bus Station Ave. Portsmouth, Virginia | October 22, 1956 | N.A.P. Balt Line |
| Swann, Robert L. | 104 E. Oxford Ave. Alexandria, Virginia | June 17, 1956 | R. F. & P. |
| Falmestock, Leonard | 16 E. Ballafante Ave. Alexandria, Virginia | February 2, 1957 | Southern Ry. |
| Griffin, Wilbur G. | Carroville, Virginia | November 12, 1956 | N. & W. |
| * Johnson, Edward F. (2 injuries) | 703 - 9th Avenue Portsmouth, Virginia | December 12, 1955 August 9, 1956 | N.A.P. Balt Line |
| Kilgore, James H. | 406 Spotswood Ave. Norfolk, Virginia | August 15, 1956 | N. & W. |
| * Murphy, Billy O. (2 injuries) | 619 London Street Portsmouth, Virginia | December 5, 1955 July 31, 1956 | N.A.P. Balt Line |
| Nethery, Donald | 302 George Drive Portsmouth, Virginia | August 22, 1957 | N.A.P. Balt Line |
| Oakes, John R. | 875 Halstead Lane Norfolk, Virginia | November 1, 1956 | N. & W. |
| Reynolds, Frank H. | 2121 Oregon Ave. Portsmouth, Virginia | May 14, 1956 | N.A.P. Balt Line |
| Wells, Thomas J. | 6429 Millard Street Norfolk, Virginia | February 19, 1958 | N. & W. |
| ** Barnett, B. T. (Deceased) | Route # 4, Box 328 Danville, Virginia | November 14, 1958 | Southern Ry. |

* With the exception of these two injury cases, any cases prior to 1955 are destroyed.

** Legal Counsel Lewis and Lewis are handling this case. It is filed in Birmingham, Alabama, and is still pending.

[fol. 754]
IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA
PLAINTIFF'S EXHIBIT 67

[fol. 754]

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IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA
PLAINTIFF'S EXHIBIT 67

902

[fol. 755]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 68

October 12, 1949.

#720—WPK:SCL:VN

Mr. Thomas J. Lewis,
Regional Counsel,
727 First National Bank Bldg.
Atlanta 3, Georgia.

Dear Sir and Brother:

Effective October 15, 1949, the letter of former President A. F. Whitney, under date of January 15, 1932, appointing you as regional counsel for the Brotherhood of Railroad Trainmen, and your appointment thereunder as such, are hereby canceled and terminated.

Thanking you for the manner in which you have represented injured members of the Brotherhood, and the dependents of deceased members, since your appointment, I am

Fraternally yours,

/s/ W. P. KENNEDY
President.

cc:
Mr. S. C. Lush, Manager,
Legal Aid Department.

[fol. 756]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 69

(Letterhead of Thomas J. Lewis, Atlanta 3, Georgia)

October 14, 1949

Mr. W. P. Kennedy, President
Brotherhood of Railroad Trainmen
Standard Building
Cleveland 13, Ohio

Dear Brother Kennedy:

This will acknowledge receipt of your letter of October 12, 1949 cancelling and terminating my appointment as Regional Counsel for the Brotherhood of Railroad Trainmen by former President Whitney under date of January 15, 1932.

Fraternally yours,

/s/ THOMAS J. LEWIS
Thomas J. Lewis

TJL:JT

[fol. 757]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 70

October 12, 1949

#720—WPK:SCL:VN

Mr. Thomas J. Lewis,
Regional Counsel,
727 First National Bank Bldg.
Atlanta 3, Georgia.

Dear Sir and Brother:

Because of your experience, and outstanding success in handling cases for our members who have been injured, and for the dependents of those killed while employed on

the railroad, and having full knowledge of your honesty and integrity, I have decided to reappoint you regional counsel for the Brotherhood of Railroad Trainmen, effective October 15, 1949, within the same territory in which you served under your former appointment.

Fraternally yours,

/s/ W. P. KENNEDY
President.

cc:

Mr. S. C. Lush, Manager,
Legal Aid Department.

[fol. 758]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 71

(Letterhead of Thomas J. Lewis, Atlanta 3, Georgia)

October 14, 1949

Mr. W. P. Kennedy, President
Brotherhood of Railroad Trainmen
Standard Building
Cleveland 13, Ohio

Dear Brother Whitney:

This will acknowledge receipt of your letter of October 12, 1949 re-appointing me as Regional Counsel for the Brotherhood of Railroad Trainmen, effective October 15, 1949, with the same territory in which I served under former appointment.

I shall endeavor to represent the members of the Brotherhood in the territory allotted to the best of my ability in the future just as I have in the past.

Should I be able to serve you in any capacity at any time, please feel free to call on me.

Fraternally yours,

/s/ THOMAS J. LEWIS
Thomas J. Lewis

TJL:JT

[fol. 759]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 72

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THE RAILROAD TRAINMAN

ESTABLISHMENT OF A LEGAL AID BUREAU
AT GRAND LODGE HEADQUARTERS

Under date of January 22, 1930, the President directed a special circular to all subordinate lodges in the United States, which circular was headed "*Shall a legal aid department be established in the grand lodge for the purpose of advising injured members, and the dependents of those killed, as hereinafter provided?*"

In compliance with the instructions contained therein, ballots were returned to the Grand Lodge office, which, after having been tabulated, showed that the Legal Aid Bureau was endorsed by more than two-thirds of the Lodges in the United States.

It is therefore important at this time to give the membership a brief and clear synopsis of the plan so that it may be understood by all of them.

The sole purpose back of this plan is to render aid and assistance to our injured members and their dependent widows and orphans when advice and counsel are most needed. It means the establishment at Grand Lodge headquarters of a Bureau to which injured members and the dependents of those who may be killed while engaged in railroad service may apply for information and advice relative to their rights respecting claims for damages. This Bureau will be conducted under the supervision of the President of the Grand Lodge.

When a member is injured he will be privileged to write to the Bureau furnishing such information relative to his injury as may be necessary to enable the Bureau to determine his rights. The same privilege will be given to the dependents of members, who may be killed in railroad service. Arrangements will be made through the medium of the Bureau with competent and reputable railroad dam-

age suit lawyers at various strategic points in the United States to whom members may resort for advice and assistance in cases where they cannot satisfactorily adjust their claims with the railroads. No charge will be made for advice given by these regional lawyers, except, where the members, of their own volition, contract with the lawyers to prosecute their claims. There will be no obligation on the part of any member of the Brotherhood to consult or employ lawyers agreeable to the Legal Aid Bureau. They are free to employ any other lawyer if they desire.

Arrangements will be made with lawyers in the various localities covering the amount to be charged for their services, which will not exceed twenty per cent of the net amount of any recovery which may be made by the lawyers on behalf of the injured men, or the dependents of one who has been killed. In cases where investigations must necessarily be made before passing upon the question of liability, the Legal Aid Bureau will undertake to make the necessary investigations; such investigations will be made by men employed by the Brotherhood for that purpose.

In the minor injury cases, railroads usually pay for time lost and it is our conviction that it is better to accept such settlements than to employ lawyers. In cases where the disability is not permanent and the member is able to return to his employment, it is our belief that every effort should be made to bring about amicable settlements with the railroad company. We believe that a policy of attempting to reach fair settlements with the railroads by keeping injury cases out of the hands of the lawyers will in the end benefit the employees and improve existing conditions with respect to the settlement of injury claims.

In cases where employees are permanently injured so that they cannot return to their former occupation, it is expected that every fair and reasonable effort will be made to adjust claims for damages direct with railroads, either by the injured member himself or through the medium of his chosen representative among the officers and members of the Brotherhood.

The Legal Aid Bureau is now prepared to render service and give opinions to all members in the United States

through the medium of correspondence. All inquiries should be addressed to Tom J. McGrath, General Counsel, B. of R. T. Bldg., 820 W. Superior Ave., Cleveland, Ohio.

As rapidly as it is possible to do so, consistent with the proper handling of other Brotherhood business, regional counsel will be arranged for in the various sections of the country. Regional counsel have been selected and arrangements made for their services, as follows:

For the northwesterly territory, Davis, Michel, Yaeger & McGinley, with offices at 419 Metropolitan Bank Bldg., Minneapolis, Minn., and at 1048 Otis Bldg., 10 So. La Salle St., Chicago, Ill.

For the Chicago district and adjacent territory, Jos. D. Ryan, 100 No. La. Salle St., Chicago, Ill.

For Ohio and adjacent territory, Newcomb, Newcomb & Nord, 1528 Standard Bank Bldg., Cleveland, Ohio.

Davis, Michel, Yaeger & McGinley will serve our membership on the following lines and portions of lines of railroads:

Chicago, Milwaukee, St. Paul & Pacific (East and West)
C. B. & Q.

Soo Line

Chicago Great Western

Minneapolis & St. Louis

Great Northern

Chicago Northwestern

Northern Pacific

D. & I. R.

Minnesota & International

Green Bay and Western

D. S. S. & A.

D. M. & N.

D. W. & P.

Illinois Central (north of the Ohio River)

Rock Island (except south and west of the northern boundary of Oklahoma)

Jos. D. Ryan will serve our membership in all of the lodges in the State of Illinois, except the members employed on lines over which the following lodges have jurisdiction, which lines have been assigned to Davis, Michel, Yaeger & McGinley:

| | |
|-------------|---|
| C. B. & Q. | Lodges 6, 412, 479, 372, 24, 617, 150, 25, 940 |
| C. & N. W. | Lodges 310, 375, 424, 874, 364, 931 |
| L. C. | Lodges 116, 700, 271, 4, 198, 900, 41, 115, 372, 629, 789 |
| C. & St. P. | Lodges 531, 119, 877, 474, 838, 91 |
| M. & St. L. | Lodges 830, 27 |
| B. I. | Lodges 4, 198, 474, 617, 11, 198 |
| C. G. W. | Lodge 479 |
| Soo Line | Lodges 479, 239 |

and the following lodges in the western part of the State of Indiana, westerly on a line almost directly north and south from Elkhart, Ind., to Jeffersonville, Ind., have been assigned to Mr. Ryan:—

615, 883, 23, 242, 326, 960, 962, 402, 109, 926, 982, 16, 361, 165 and 146.

Jos. D. Ryan will also serve our membership on the following lines in the State of Michigan—Pere Marquette from Lansing to Chicago east, and from Lansing on a line north to Saginaw and Bay City; the Pere Marquette excepting a line from Cleveland to Detroit; the Pennsylvania from Chicago to Sturges and north to Mackinaw and the Grand Trunk Line.

[fol. 760] Newcomb, Newcomb and Nord will serve our membership in all lodges in the States of Ohio and West Virginia and the following lodges in the easterly part of the State of Indiana:

318, 136, 762, 158, 55, 261, 374, 699, 689, 33, 575, 207 and 126.

All of Ann Arbor, Michigan Central, and the Pennsylvania from Toledo to Detroit and the Pere Marquette from Toledo to Detroit in the State of Michigan.

Membership in lodges in that portion of western Pennsylvania lying west of a line running north and south through Altoona.

142, 955, 980, 105, 456, 179, 299, 309, 775, 808, 863, 944, 948, 462, 566, 558, 521, 184, 974, 63, 435, 174, 467, 742, 534, 573, 461, 703, 591, 571, 719, 561, 386, 218, 632, 593, 258, 199, 457, 345, 753, 954 and 231.

Membership in the following lodges in the State of Kentucky:

494, 903, 958, 932, 908, 156, 839 and 806.

It is to be understood that there is no compulsion on the part of the members to seek advice or assistance or to make contracts with the lawyers to whom the particular lodges hereinbefore set forth have been assigned. We believe, however, that the best interest of the plan will be served by the membership confining themselves to the selection of these lawyers, although it is optional for reasons of choice or convenience to select any regional counsel.

Because of the fact that Indianapolis is practically equal distance from Chicago and Cleveland, it is made entirely optional with the membership of these lodges to call upon Mr. Ryan or Messrs. Newcomb, Newcomb, & Nord.

The following are rules and regulations agreed upon between regional counsel and the Legal Aid Bureau to govern the conduct and handling of Brotherhood matters by such counsel.

Regional lawyers will be selected in various railroad centers of the United States, with a view of rendering the service contemplated by the establishment of the Legal Aid Bureau with the greatest degree of efficiency, keeping in mind the convenience of members and total membership in a given district, so as to give the regional lawyers a reasonable assurance of a sufficient volume of Brotherhood business to warrant the rendering of proper service on the basis of compensation agreed upon. The allocation of territory will not be predicated solely on geographical lines, but rather on railroad lines, that is to say, each regional lawyer will be given jurisdiction over so many miles of track on each railroad running into his territory.

When the regional lawyers are selected, and from time to time thereafter, articles will be published in The Railroad Trainman informing members of the services rendered by the Legal Aid Bureau and advising them also of the names and addresses of the regional lawyers.

When members are injured, either they or proper members of their grievance committees or subordinate lodge officers acting on their behalf, or, in case of the accidental

death of members, their dependents, may write or call on the Legal Aid Bureau for information and advice as to their legal rights. They will be required to furnish, as nearly as possible, a full and complete statement of all of the facts surrounding the accidental death or injury. This will include written statements of witnesses, whenever and wherever obtained. Injured members will be required to furnish statements from medical examiners where there is any question as to the nature or extent of the disability.

In all major injury or death cases, upon request of the injured man or dependent or an officer of the Brotherhood authorized to represent the claimant, an investigator, employed by the Legal Aid Bureau, will be assigned to investigate and ascertain the facts surrounding the accident or death. Reports of such investigations will be filed with the Bureau and when any such cases are referred to or brought to the regional counsel, copies of such reports will be sent to them. The Bureau will endeavor to provide means for securing promptly after the occurrence of all accidental injuries or deaths, the names and addresses of the injured members or dependents, as well as the character of the injury, so that the claimants may be expeditiously informed that the services of the Bureau and the regional counsel are at his or her disposal.

Members and their dependents upon request therefor will be advised as to the best course to pursue, in the judgment of the Legal Aid Bureau, to effect a settlement, including advice as to what amount in the judgment of the Bureau would constitute a fair settlement of the claim. The affairs of the legal department will be conducted with the thought in mind primarily of encouraging amicable settlements in all cases.

Requests for information and advice in minor injury cases will be discouraged in order to prevent the burden imposed on the Legal Aid Bureau from becoming unduly heavy and thereby unreasonably expensive.

In cases where close questions of liability are involved and intricate detailed information is essential to a proper determination of a member's rights, he may be referred to the regional attorney of his district. It will be the duty

of this attorney to counsel with and advise the injured member without charge with a view to enabling him or his Brotherhood representative to effect a fair settlement. The Legal Aid Bureau will insist that regional lawyers in such cases advise members solely with a view to promoting the best interest of the members. Any overreaching on the part of regional lawyers intended to induce members to sign contracts of employment will be discountenanced. Succinctly, the Legal Aid Bureau will expect the regional lawyers to advise members of the Brotherhood in exactly the same way as they would advise a client who paid for legal advice.

The Bureau will endeavor, through the medium of The Railroad Trainman and circulars periodically sent to officers and lodges, to keep the membership of the Brotherhood advised as to the names and addresses of regional counsel in their respective districts. It is anticipated that members and dependents, or lodge officers representing them, may go direct to regional counsel for information and advice and all such cases will be handled by regional counsel in the same manner as if referred to them by the bureau. In any such cases, where major injuries are involved, a bureau investigator will, at the request of the regional counsel, be assigned to investigate such cases, making a report in duplicate, one copy to the regional counsel and one copy to the bureau.

In cases where members have exhausted their efforts in attempts to procure settlement, they will be referred to regional attorneys with whom contracts may be made for the prosecution of their claims. It must be understood that the Brotherhood cannot undertake to control the actions of members in this regard, and that they will remain free to employ attorneys of their own choice. It is felt, however, that if the Brotherhood selects attorneys of outstanding ability in their particular field of endeavor, that fact, together with the further fact that contracts will call for compensation substantially below that now charged for like service, will be a sufficient inducement to attract a great majority of our members to regional counsel. Where it becomes necessary for members or their dependents to employ counsel, contracts, to be approved as to form by the

Legal Aid Bureau, will be entered into by regional counsel and claimants, calling for payment by the claimant of a contingent fee of twenty per cent of the net amount recovered in suit or settlement.

Regional attorneys will be required to report all cases handled by them in which a contract has been entered into with members of the Brotherhood, setting forth a statement of the facts involved, together with the amount of settlement or verdict received. The legal department shall be furnished with itemized statement of costs and disbursements, and the deduction of same from recoveries will be subject to the approval of that department.

Regional counsel will be privileged to advise with the Legal Aid Bureau on questions of law, and it will be the policy of the department to disseminate information gathered from the several regional districts among all of the regional counsel of the Brotherhood from time to time.

It will be understood that members will have control of their cases in the hands of regional attorneys, and that [fol. 761] no settlement of any case can be made without the consent of the client.

While the membership will be advised as to the names and addresses of regional counsel for their particular line of railroad, it will be impossible to control their choice of attorneys and each member or dependent will have the option, either for reasons or choice or convenience, to consult with or employ any regional counsel.

In the drafting of the above outline it must be appreciated that the work upon which we are about to engage is more or less experimental in character, and that original plans will unquestionably have to be modified from time to time as occasion warrants. Changes or modifications of these plans will be subject to negotiation as between the Legal Aid Bureau and regional counsel.

At the outset, in order to serve as many members as possible, the territories will perhaps be exceptionally large, but as additional regional counsel are selected there will be a realignment of territories to promote the greater convenience of members who wish to consult regional counsel.

In territories not already assigned and not in the jurisdiction allotted to Minneapolis, Chicago and Cleveland

counsel, the bureau will endeavor to render service to the members through correspondence to the best of its ability until regional counsel have been selected to cover the entire United States, which will be accomplished as early as possible.

The Legal Aid Bureau will be glad to answer all inquiries relative to the plans and purposes of the Bureau and any members desiring any additional information on this subject may address their inquiries to Tom J. McGrath, General Counsel, 820 W. Superior Ave., Cleveland, Ohio.

TOM J. McGRATH,
General Counsel.

Approved

/s/ **A. F. WHITNEY**
President of B. of R. T. [SEAL]

[fol. 762]
734

THE RAILROAD TRAINMAN
December 1936

YOUR LEGAL AID DEPARTMENT

By **S. C. LUSH**, Vice-Chairman Minnesota Legislative Board
The Legal Aid Department was instituted because thousands of our members, injured while on duty, or dependents of those killed in service, were not receiving compensation commensurate with their legal rights.

While this had been going on for many years, President Whitney is the first and only labor leader among the Railroad Brotherhoods to take steps toward protecting the membership of an organization in this respect.

President Whitney realized it was not enough that the railroad labor organizations had been successful in having laws enacted to protect their injured members and the widows and children of those killed. He perceived that in order to secure the benefits of these laws, a department would be necessary in our organization whose duty would

be to advise our members of their rights under the laws. He also saw that in order to advise them correctly, all the facts surrounding the accident must be known, because the investigation held by the railroad company does not always develop all the facts, and that for this work it would be necessary to have men trained to conduct a separate investigation from that conducted by the railroad company.

The purpose of the department is to advise our members of their rights under the law, so that in order to learn the value of their case they will not have to depend upon the lawyer who sees only his fee or the claim agent who is trying to settle the claim as cheaply as possible.

The object of the department is to help the injured member settle directly with the railroad company, if possible. The department wants the injured member to know what is a fair settlement after all of the facts have been developed, and to do this the department has contracts with reputable attorneys, specialists in this particular branch of law, who have a reputation for honesty and fair dealing, to counsel members without charge, and in the event their legal services are required because the railroad company failed to make a fair offer, to handle their case for a reasonable fee.

It was not uncommon for some attorneys or their agents to approach an injured member and induce him to sign a contract of retainer even before the injured man knew the extent of his injury. As a result of this practice, many of our members have lost twenty or more years seniority and received little if any more money than they could have gotten direct from the railroad company.

In one instance, a member who was No. 1 on the seniority list of a railroad, sustained an injury to one of his feet. After the claim agent had offered him one-half time, he turned his case over to a lawyer who brought suit in his behalf but settled the case for all it was worth under the law before it went to trial. However, the amount was small because the trainman had fully recovered at the time of the settlement and could have resumed his former occupation. When the lawyer took the case, he told this member that it was one of clear liability. This was true, but the lawyer failed to tell the injured man that the amount he could col-

lect under the law was only the amount of the wages lost due to the injury, plus something for the pain and suffering he had endured. As a consequence, this member received, net, to himself, little more than the amount offered him by the railroad company and he lost approximately twenty-five years seniority. It is true that the claim agent did not make him a fair offer; however, any reputable lawyer would have told him that his seniority was worth more to him than the small amount he could recover over and above the amount offered for the reason that his injury was not permanent.

President Whitney also discovered that many members of our organization, or their dependents, were accepting a fractional part of what they were entitled to under the law. One such case is recalled where one of our members lost his hand while attempting to make a coupling. This man was employed as a switchman. He had backed his train of five cars in on a track to pick up other cars. When the cars were about two car lengths apart he observed that both knuckles were closed. As the cars were moving slowly, he walked to the stationary car and raised the pin-lifter. The pin came up, but the knuckle failed to open. With both hands he then jerked repeatedly on the pin-lifter. Each time he did so, the pin came up but the knuckle did not kick open sufficiently so that he could effect a coupling. When he saw that he could not open the knuckle in the usual and customary way, he held the pin-lifter up with his left hand and stepped between the cars, pulling the knuckle open with his right hand. By this time the cars came together, crushing his right hand so badly that amputation was necessary. Under the Federal Employers' Liability law and the Automatic Coupler law, this man, engaged in interstate commerce, had a clear liability case, for the reason that the defective coupler was directly responsible for his injury. The Automatic coupler law provides, in effect, that cars and engines must be equipped with automatic couplers which will couple automatically by impact and uncouple without the necessity of a trainman going between the ends of the cars. In other words, if it is necessary to go between the ends of the cars and adjust the draw-bar or knuckle, or any part of the coupling apparatus, in order to effect a coupling

or to uncouple cars, the company has violated the coupler law by allowing such a condition to exist. Even though the man may have violated a company rule by going between the ends of moving cars, the railroad company is not permitted to hide behind this act if an injury occurs because of its failure to comply with the provisions of the Automatic Coupler law, as it was the carrier's failure to comply with the law which caused him to violate the rule. A few days after this accident and while the injured man was in great pain, the claim agent insisted upon taking a statement as to how the accident had occurred, and the injured man told his story to the claim agent as given above. In writing up the statement, however, the claim agent conveniently omitted some of the facts as given by the injured man, claiming that they had no bearing upon the case and that he only wanted a statement as to what took place at the moment of the accident. The parts which he conveniently left out of the statement were the facts that the injured man had pulled repeatedly on the pin-lifter and that while the pin had raised, the knuckle had failed to open. The claim agent wrote into the statement only the fact that the injured man had raised the pin-lifter with one hand and pulled the knuckle with the other. This, of course, did not tell the true story, as there was nothing to show that when the trainman had attempted to operate the coupler in the ordinary and usual way, the knuckle failed to open. He made it appear that the yard man had simply gone to the end of the car, raised the pin-lifter with one hand, and pulled the knuckle open with the other, without giving it an opportunity to work in the ordinary and usual way. When the claim agent asked whether or not there was anything broken about the coupler, the injured man stated that there was not, so the claim agent wrote into the statement that there were no defects to the draw-bar or coupler. The injured trainman signed this statement, not knowing that when the coupler failed to operate when manipulated in the ordinary and usual way, it was defective under the Automatic Coupler law. The claim agent later offered this member \$2,500 as a settlement and after several months' negotiations he failed to increase this offer, stating that the [fol. 763] railroad company was in no way to blame and that the injured man should not expect a larger settlement.

Fortunately, this brother contacted one of our Regional Counsel and his case was settled out of court for an amount many times the \$2,500 offered by the railroad company.

It is because of similar cases occurring almost daily, that this department of the Brotherhood is so necessary. Few of our members understand their rights under the laws governing them in the event of injury. Then, too, not many of our members understand that under the Federal Employers' Liability law, it is necessary to prove that the injury or death of an employee was caused through the fault of the railroad company or its employee, or by defective equipment, before the railroad company can be held legally liable. Not many of them know that if the railroad company is at fault, the only limit upon the amount they can recover is the amount that can be shown has been lost to them as a result of the injury, or, in the event of death, the present value of the amount the dependents would have received during his lifetime had he lived, if the man injured or killed was engaged in interstate commerce, at the time of the accident, or met with his accident in a state having a liability law, patterned after the Federal Act.

It is because of the fact that you must prove the railroad company guilty of fault before it can be held liable under this law that it is so necessary to have the accident investigated by one who understands railroading, as well as the law, as the opinion of an attorney is valueless unless he has all of the facts before him, and then the opinion of an attorney is usually of little value unless he is one who is a specialist in this type of litigation.

Many times it is found that the facts developed by the railroad company do not prove to be all of the facts surrounding the case, but are only such facts as will tend to show the company is in no way to blame for the injury. As an illustration, one of our members was killed and the railroad company claimed that his injury and death was caused through his own fault and negligence in failing to set a brake. Later, the Legal Aid Department developed the fact that he could not set the brake because it was defective and he had so stated shortly after his injury. The railroad company had offered the widow \$1,500 in settlement, but a few months later, after the case had been investigated and all

of the facts developed, and within thirty days of the time she turned her case over to one of our Regional Counsel for adjustment, that same railroad paid, before trial, \$14,500 in settlement, and this was only because they knew that the Legal Aid Department had learned all of the facts of the accident.

In another case, a brother lost part of his foot while pushing over a draw-bar. He was offered \$2,500 in settlement. The railroad company claimed the draw-bar was not out of line and that the coupling would have been made if he had left it alone. This brother did not remember having seen any one near the scene of the accident who would know about the condition of the draw-bar, but the department, upon making investigation, learned of an eye-witness who corroborated the injured brother's statement and proved beyond doubt that the draw-bar was out of line, and in this case, when the railroad company found that all of the facts were known, it settled the case, before trial, for \$12,500.

A sister organization which claims to represent train and yardmen, is now starting a Legal Aid Bureau, and I am told that they are appointing regional counsel who are to advise their general chairman and injured members. However, it has no investigation division; presumably it will advise them on the facts developed by the railroad company. Such a department will be like a nice new automobile, without gas; nice to look at, but it will not take them any place.

There has been some opposition to our department by some of our members, but I am sure it was only because they did not understand its purpose. Remember, brothers, this department is not interested in lawyers or suits against railroads; its whole object is to help injured members or the dependents of those killed to make a fair settlement directly with the railroad company, if possible; if not, to see that they have an opportunity to obtain honest, reliable and competent attorneys; and the department conducts an investigation of the facts surrounding an accident to an injured member without cost to the member, and then, through its Regional Counsel, advises you as to whether or not you have a liability case under the law, and, when all of the facts are taken into consideration, what would be a fair

settlement. Then you are at liberty to settle your case for any amount you desire. You will be armed with knowledge of your rights, given to you by those who have a personal interest in you and who are only interested in helping you get a square deal.

Should you be so unfortunate as to sustain an injury while on duty, be sure to see that your local lodge officers make a report to the Legal Aid Department in Cleveland.

[fol. 764]

LUSH EXPLAINS BRT WORKINGS TO PA. MEMBERS

[Stamp—Dec. 18, 1948]

Wilkes-Barre, Pa.—One hundred ten officers of lodges in Northeastern Pennsylvania learned the ins and outs about workings of various departments of the Brotherhood at a recent largely attended banquet in Hotel Reddington here.

Bringing the valuable information to the BRT leaders was S. C. Lush, manager of the Legal Aid Dept. at Grand Lodge.

Lush also gave a complete explanation of Legal Aid Dept. machinery and pointed out the value of its services to Brotherhood members.

He urged members to use services of the LAD and discussed the many benefits thousands of BRT-ers have received since President Whitney authorized establishment of the department 18 years ago.

[fol. 765]

WINS \$35,000 INJURY AWARD; PRAISES BRT

[Stamp—Aug. 1, 1948]

Reading, Pa.—Frank K. Michael, Lodge 950, can't find words to express his appreciation of the BRT and its Legal Aid Department.

Recently he received a check for \$35,000 plus interest in settlement of an injury case that had been carried to the U. S. Court of Appeals.

He was injured in February, 1947, while backing out of an engine and preparing to get off. His overcoat caught on something on a car on an adjacent track and Michael sustained several fractured ribs and a fractured right hip.

First awarded the \$35,000 in Philadelphia, the railroad's attorneys moved to set aside the verdict, and were denied. Then the road went to the U. S. Court of Appeals, again to be denied, with the award being made in May, 1949, for Michael.

Michael has great praise for the expert handling of his case in courts.

[fol. 766]

BLACK ADDRESSES LODGE GATHERING

Salt Lake City, Utah—Know your Legal Department, was the theme of a BRT gathering recently, when Lodges 471 and 941 were addressed by Parnell Black, legal counsel, with Stan Nokes, legal aid investigator, acting as MC.

The legal counsel did not mince words when he addressed the assembly, stressing the importance of consulting the legal aid department instead of heeding the "sympathy" of the claim agent.

O'BRIEN WINS HONOR

[Stamp—May 21, 1951]

Boston.—Thomas C. O'Brien, regional counsel, has recently been elected president of Massachusetts Association of Plaintiff's Compensation Attorney, a highly cherished honor among attorneys.

O'Brien, Lodge 486 member, recently received his 40-year pin. He has been New England regional counsel since 1930.

[fol. 767]

A. M. OLIVER JOINS HENSLEE'S OFFICE

[Stamp—Nov. 21, 1949]

Pittsburgh—Regional Counsel E. B. Henslee has announced that Mr. A. M. Oliver will handle the short line railroads in the Pittsburgh area for his office.

Mr. Oliver, whose offices are at 402 Walsh Building, 434 Diamond Street, Pittsburgh, replaces James P. McArdle, who formerly handled the short line railroads.

Mr. Oliver has long experience in handling personal injury cases under Federal Employers' Liability Act, and has had many cases against the short lines.

He will be available to all BRT-ers on short lines for advice as to rights under FELA, and to handle claims for injuries sustained during their employment.

His office will be happy to advise members in the Pittsburgh area, whether they are employed on short or trunk lines, as to their rights under FELA, said Mr. Henslee.

LUSH SPEAKS AT FISH FRY IN VICKSBURG

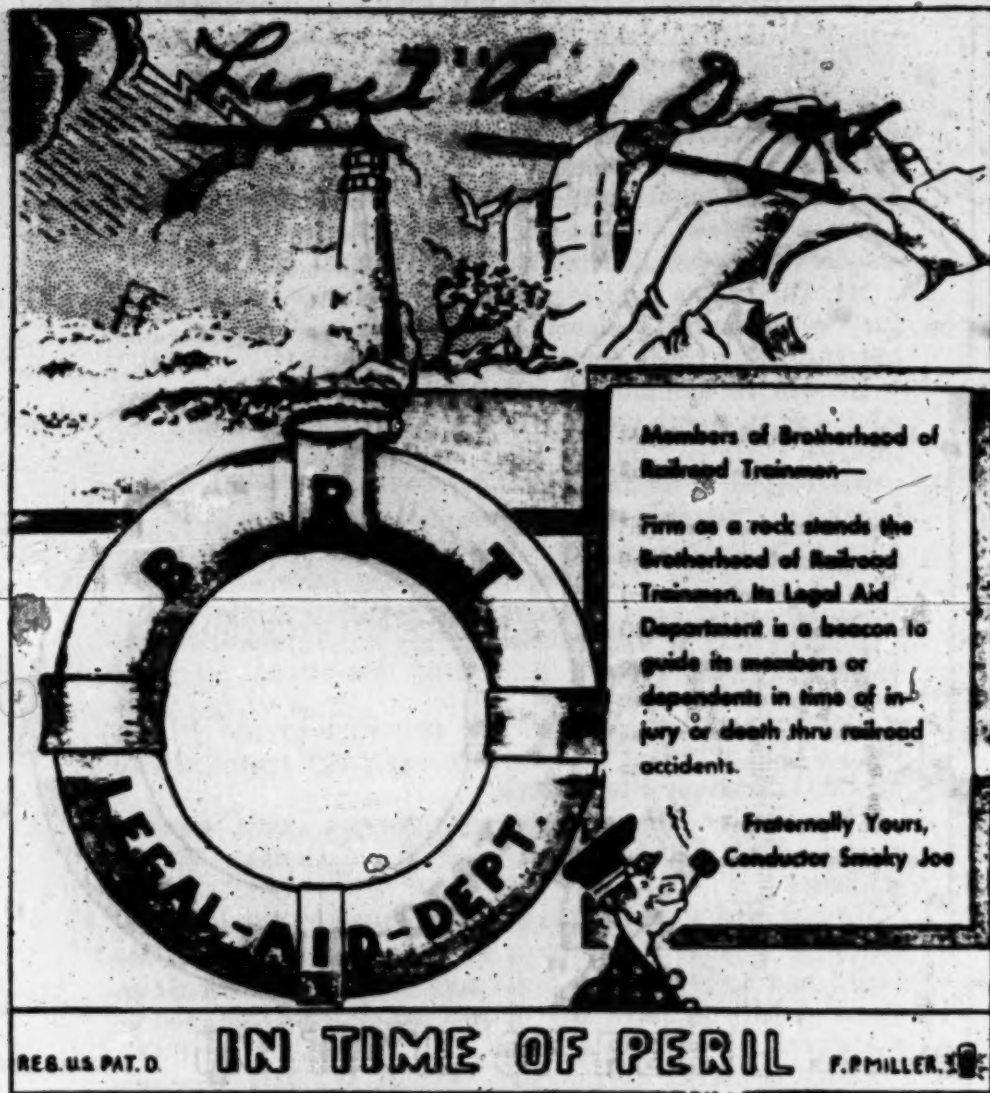
[Stamp—May 7, 1951]

Vicksburg, Miss.—The service provided by the BRT's legal aid department was thoroly explained recently here by LAD Manager Steve Lush.

The popular Grand Lodge official was guest speaker at the annual fish fry given by Regional Counsel W. W. Ramsey.

He repeated a warning frequently issued by the Brotherhood—be sure to notify your local lodge secretary of injuries and accidents and don't talk to any railroad claim agent until you have first consulted a legal aid representative.

Judge Bently G. Byrnes and William W. Ramsey, associates of Regional Counsel Ramsey were special guests at the big event.



PHILIP LUSH JOINS BRT LAW COUNSELS

[Stamp—July 13, 1949]

Minneapolis—Attorney Philip B. Lush, son of S. C. Lush, manager of the Legal Aid Department at Grand Lodge, recently was named a member of the law firm of Davis, Michel, Yaeger and McGinley, Brotherhood counsels in this city.

[fol. 769]

THREE BRT-ERS WIN \$172,000 INJURY AWARDS

[Stamp—Apr. 9, 1949]

Three settlements—two of them made just as they were to come to trial—netted three BRT-ers \$172,000.

One for \$120,000 was among the highest ever received from a railroad for a personal injury.

Joseph Yesavage, Lodge 846, who lost both legs working as a Lehigh Valley yard helper in the Oak Island, Newark, N. J., yards, got \$120,000 when date was set for trial in New York eastern district federal court.

Regional Counsel B. M. Savage reports the case was set for trial when the railroad showed unwillingness to settle for a substantial amount, and the agreement came thru when the carrier saw the case would be heard.

**S. LUSH DECLARES MEMBERS FAVOR
LEGAL AID DEPT.**

[Stamp—Apr. 9, 1949]

Chester, Pa.—Altho antagonism sprung up against the Legal Aid Department at its inception the members now strongly favor the department's entire program.

S. C. Lush, LAD manager, made that statement in an address recently at the 27th annual banquet of Lodge 488.

McGLYNN BACK ON JOB

[Stamp—(Month and day illegible) 1949].

East St. Louis—Regional Counsel Joseph B. McGlynn is back in the harness after a long siege of illness.

[fol. 770]

LUSH RETIRES FROM LEGAL AID MANAGER POST

[Stamp—June 30, 1952]

S. C. (Steve) Lush, manager Legal Aid Department, whose tireless efforts brought the department from threatened extinction to its present highly successful status, has retired from the post.

In accepting his resignation, President W. P. Kennedy praised the fine work of Lush and wished him full enjoyment of his retirement.

President Kennedy, acknowledging the resignation, wrote Lush the following letter:

"Under your management, the Legal Aid Department of the Brotherhood has become one of the very important departments of the Brotherhood and has resulted in our injured members and the dependents of deceased members receiving millions of dollars which they would not have received had the department not functioned in the very efficient manner in which it has since you took over the management in 1939."

WHEN ARE RRs LIABLE?

[Stamp—Mar. 3, 1952]

Sandusky, Ohio—Thomas Klein, Lodge 844, asks Trainman News for information, for the benefit of all members, with reference to the question of the legal liability of a railroad company where its employe is transported by taxicab to or from a place of work and an accident occurs in which such employe is injured or killed.

Brotherhood attorneys advise that, in general, a railroad company cannot be held liable for the negligence or the acts of a third party. In the case cited, the taxicab company would be the third party and would be liable, under the general laws and court decisions of the state, for any negligence of which it might be guilty, if such negligence contributed to the injury or death. This assumes, of course, that there was no negligence or act of the railroad in connection with the injury or death, other than the hiring of the taxicab.

Attorneys advise, however, that where the railroad company furnishes an automobile, driven by one of its employes, for the purpose of transporting its employe in the course of his employment, then such railroad would be liable for injury or death occurring during the transportation of the employe, under the provisions of the Federal Employers Liability Act.

[fol. 771]

McELROY HAILS NEW YORK MEETING

[Stamp—Sep. 29, 1952]

Cleveland—•••

Regional Counsel McElroy addressed several meetings during the convention in Watertown and also was seated at the speakers' table at the banquet honoring President W. P. Kennedy.

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[fol. 772]

RAWLINGS IS NAMED REGIONAL COUNSEL

[Stamp—Sep. 24, 1951]

President Kennedy has announced appointment of Calvin W. Rawlings as regional counsel at Salt Lake City, with the same territory formerly assigned to Parnell Black, who died recently.

Mr. Rawlings is senior member of the firm of Rawlings, Wallace, Black, Roberts & Black. During the time Mr. Black was regional counsel, Mr. Rawlings was in close touch with the many cases handled for injured BRT-ers and dependents of deceased members.

This appointment assures our members of the same fine, expert service they received during the many years when Parnell Black was regional counsel, said S. C. Lush, manager Legal Aid Department.

Mr. Rawlings is located at 530 Judge Building, Salt Lake City 1, Utah.

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[fol. 773]

E. A. RERAT JOINS BRT COUNSEL FIRM

[Stamp—July 23, 1951]

Minneapolis—Regional Counsel Tom Davis has announced that Eugene A. Rerat, one of the outstanding Minnesota lawyers specializing in the handling of claims for injured railroad employees, has joined the firm.

Effective July 16, 1951, the new firm name is Davis, Rerat, Yaeger and Lush and as a result BRTers in the territory assigned to Minneapolis regional counsel are assured the same high-type representation for the future as has been available to them for many years in the past.

Mr. Berat has for many years devoted practically all of his time in the trying of cases for injured railroad employes and the dependents of deceased rail employes which have been referred to him by other attorneys not specialists in this particular field.

He will now, of course, devote his entire time to cases handled by Minneapolis regional counsel.

URGES REPORT OF MAJOR AND MINOR INJURIES

[Stamp—June 12, 1950]

Vicksburg, Miss.—Every case of injury, whether major or minor, should be reported to the Legal Aid Department.

Minor injuries often develop into serious disability, explained Judge W. W. Ramsey, regional counsel, and cause great loss of time and sometimes permanent injuries result.

He was addressing a gathering at his Eagle Grove fishing lodge, where BRTers from Louisiana and Mississippi had come to hear Legal Aid matters discussed, and enjoy the fishing and picnicking available at the lodge.

Legal Aid Manager S. C. Lush also addressed the gathering. Other guests included C. N. Hope, Arkansas state representative, and J. L. Pierce, member Grand Lodge Executive Board.

Judge Ramsey explained that the LAD existed solely for the protection of members, and urged them to remember that in the event the local or general grievance committee could not secure a fair and satisfactory settlement, they were at liberty to refer the claim to LAD for handling.

[fol. 774]

LEGAL AID ACTIVITIES DISCUSSED AT PARLEYS

[Stamp—July 5, 1954]

St. Louis—C. R. (Bob) Maher, chief clerk of the Legal Aid Department at Grand Lodge, discussed work of the LAD at conferences here recently with two of the BRT's newest legal counsel—Jack H. Haley Jr. and Dan McGlynn.

Following the death of Joseph B. McGlynn, late BRT legal counsel in this area, Haley was appointed Brotherhood legal counsel by President W. P. Kennedy, effective Jan. 20, 1954.

Dan McGlynn, a brother of the late Joseph B. McGlynn, was appointed BRT legal counsel by President Kennedy, effective May 1, 1954. He has made application for BRT membership in Lodge 395.

[fol. 775]

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ILL. SUPREME COURT LEGALIZES, APPROVES THE LEGAL AID DEPT.

[Stamp—Jun 9 1958]

Cleveland—In a notable decision handed down at Springfield, Ill., on May 23, the Illinois Supreme Court, consisting of seven judges, unanimously placed its stamp of approval on the legal aid program of the Brotherhood of Railroad Trainmen.

Specifically, the court held that the Brotherhood itself must maintain the Legal Aid Department without contributions from attorneys in connection with the procurement of cases.

In effect, this long pending decision was a major victory for President W. P. Kennedy, who had sought through Edward B. Henslee, general counsel of the Brotherhood, to have the court define precisely what the Legal Aid Department of the Brotherhood can and cannot do in protecting the rights of an injured member or of the dependents of a deceased member killed in the service of a railroad.

In its decision, the court reviewed the long and successful history of the Brotherhood's legal aid program since it was established in 1930. It noted the question that had been raised concerning the attorney relationship and observed that "the Brotherhood has frankly and openly placed its problem and its own solution of it before the court and asked for guidance."

The court then added: "We think, therefore, that it is appropriate to indicate in broad outline what the Brother-

hood may do with respect to the injury and death claims of its members . . .

"The Brotherhood has a legitimate interest in investigating the circumstances under which one of its members has been injured. That interest antedates the occurrence of any particular injury.

"We are of the opinion that the Brotherhood may properly maintain a staff to investigate injuries to its members. It may so conduct those investigations that their results are of maximum value to its members in prosecuting their individual claims, and it may make the reports of those investigations available to the injured man or his survivors . . .

"The Brotherhood may also make known to its members generally, and to injured members and their survivors in particular, first, the advisability of obtaining legal advice before making a settlement and second, the names of attorneys who, in its opinion, have the capacity to handle such claims successfully . . . No financial connection of any kind between the Brotherhood and any lawyer is permissible. No lawyer can [fol. 776] properly pay any amount to the Brotherhood or any of its departments, officers or members as compensation, reimbursement of expenses or gratuity in connection with the procurement of a case . . . The relationship of the attorney to his client must remain an individual and personal one . . ."

The court added that such a course, if adopted, "will make it possible for the Brotherhood to achieve its legitimate objectives without tearing down the standards of the legal profession."

In setting forth this ruling, the court held that the Brotherhood should be permitted until July 1, 1959 to complete a reorganization of the Legal Aid Department, consistent with these standards.

President Kennedy expressed his complete satisfaction with the court's declaration. He announced that he would call a meeting sometime within the near future of all regional counsels and also the legal aid representatives of

the Brotherhood to formulate and adopt such rules and regulations as may be needed in order to comply with the court's ruling.

President Kennedy pointed out that this is possibly the first time in labor history that a union has voluntarily gone into court and requested the court for a definition of its rights in matters of this nature.

WPK NAMES R. E. McGLYNN LEGAL COUNSEL

East St. Louis, Ill.—Attorney Robert E. McGlynn Jr. was appointed a BRT legal counsel on Oct. 1 by President W. P. Kennedy.

A member of Lodge 372, he is the son of the late Attorney Robert E. McGlynn Sr., and nephew of BRT Legal Counsel Dan McGlynn and the late Joseph M. McGlynn Sr., a former BRT legal counsel.

Currently an assistant to the Illinois attorney-general, the 34-year-old McGlynn is also attorney for the East St. Louis Park District.

McGlynn, who maintains his offices with Dan McGlynn at 120 N. Main St., is a member of the East St. Louis, Illinois State and American Bar Associations.

[fol. 777]

LODGES 52, 369 HONOR LEGAL COUNSEL SCHMIDT

[Stamp—Oct 31 1960]

San Antonio, Tex.—A great open meeting to honor George L. Schmidt, appointed legal counsel Sept. 1 by President W. P. Kennedy was held by Lodges 369 and 52, assisted by Auxiliary Lodges 264 and 5.

Inspiring talks on legal aid matters were delivered by Robert B. O'Connor of Lodge 369 and Legal Counsel Schmidt.

Schmidt announced the opening of an office in San Antonio with O'Connor in charge.

[fol. 778]

PRESIDENT KENNEDY APPOINTS McARDLE BRT LEGAL COUNSEL

[Stamp—Mar 7 1960]

Cleveland—President W. P. Kennedy has appointed James P. McArdle of the law firm of McArdle, Harrington & McLaughlin, Pittsburgh, Pa., as a BRT legal counsel. The appointment was effective March 1, 1960.

Legal Counsel McArdle will handle legal matters for the BRT in the western Pennsylvania area.

He was formerly associated with late BRT General Counsel Edward B. Henslee.

A native of Pittsburgh, where he was born in 1909, Attorney McArdle was awarded a bachelor of science degree in economics by Duquesne University in 1929 and a bachelor of laws degree by the same university in 1931.

O'BRIEN IS NAMED LEGAL COUNSEL

[Stamp—May 9 1960]

Cleveland—Attorney Cornelius C. O'Brien Jr. has been appointed a BRT legal counsel by President W. P. Kennedy, effective May 1, 1960.

The new legal counsel, whose offices are at 316 Three Penn Center Plaza, Philadelphia 2, Pa., will represent the Brotherhood in any legal matters in the eastern Pennsylvania area.

Legal Counsel James P. McArdle will continue to represent the BRT in the western Pennsylvania area. His appointment by Mr. Kennedy took effect April 1. Mr. McArdle's headquarters are in the Frick Building, Pittsburgh 19, Pa.

President Kennedy said that BRT officers and members in Pennsylvania soon will be notified as to the specific areas in which Legal Counsel McArdle and O'Brien will serve.

[fol. 779]

A. S. DOMBEY IS APPOINTED LEGAL COUNSEL

[Stamp—Aug 29 1960]

Cleveland—President W. P. Kennedy has announced the appointment of Alex S. Dombey as BRT legal counsel in the State of Ohio, effective Sept. 1. He will represent the Brotherhood in all legal matters.

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SCHMIDT, HELM NAMED BRT'S LEGAL COUNSEL

[Stamp—Sep 19 1960]

Cleveland—George L. Schmidt and Shirley M. Helm have been appointed legal counsel for the BRT in the state of Texas, President W. P. Kennedy has announced.

The appointments, which became effective Sept. 1, were made after the recent untimely death of veteran BRT Legal Counsel W. States Jacobs Jr., in Houston, Tex.

Schmidt and Helm will represent the Brotherhood and its members or the President of the Brotherhood in the state of Texas when authorized to do so.

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[fol. 780]

**PRESIDENT KENNEDY NAMES LEGAL COUNSELS
IN THREE TERRITORIES**

[Stamp—Dec 15 1958]

Cleveland—President W. P. Kennedy has announced the appointment of new legal counsels to serve BRT members in three territories where recent deaths of counsels prompted the naming of successors.

Receiving the appointments from President Kennedy were E. B. Henslee and Martin K. Henslee, sons of late Legal Counsel Edward B. Henslee Sr., who also was the Brotherhood's general counsel; Herbert Zelenko, Democratic congressman representing the 21st District of New York, and his law partner, Arnold B. Elkind, and J. Murray Dunn.

The Henslee brothers, who have formed a partnership, will represent the same territory which was handled by their father for many years. Their appointment was effective Nov. 22, date of General Counsel Henslee's death. Office address is Suite 810, 139 North Clark St., Chicago 2, Ill.

The territory of Legal Counsels Zelenko and Elkind will include all of Metropolitan New York City District and all of New Jersey with the exception of Camden. The appointment took effect Dec. 1. They are located at 285 Madison Ave., New York 17, N. Y.

Legal Counsel Dunn will serve all the territory represented by late Legal Counsel Francis L. McElroy with the exception of Metropolitan New York City District and New Jersey. He assumed his appointment Sept. 24, date of McElroy's death. His office is at 707 State Tower Building, Syracuse, N. Y.

In naming Edward B. (Ned) Henslee Jr. and Martin [fol. 781] K. Henslee as legal counsels of the Brotherhood, President Kennedy told the brothers that he had "full confidence" in their ability "to take over and represent as legal counsel the same territory which your late father, Edward B. Henslee Sr., successfully handled for a great many years." Added Mr. Kennedy: "Congratulations to you and your firm in the handling of these important duties that affect so many members of our Brotherhood."

[fol. 782]

LEGAL AID MEET IS SET FOR LODGE 347

[Stamp—Oct. 22 1956]

Memphis, Tenn.—The BRT Legal Aid Department and Chickasaw Lodge 347 are sponsoring two meetings Oct. 30 at 10 a. m. and 6:30 p. m. acquaint members with the operation and mechanics of the Legal Aid Department and the benefits to be derived from it by members and their families in case injuries are sustained while on duty. Meeting place is Railroad YMCA, 960 South Third St., Memphis.

[fol. 783]

EXPLAINS IMPORTANCE OF LEGAL AID*

President and Mrs. Whitney,
Toastmaster Tom Davis, Officers,
Delegates, Members and Friends:

I want to talk to you tonight about something that is somewhat more serious than what Mr. Tom Davis, our toastmaster, has briefly referred to and that has particular reference to the Brotherhood's Legal Aid Department and the manner in which it operates.

The reason that I desire to talk to you about that particular department is because I have learned in my travels about the country that very, very few of our members appear to understand the value of the department or have any idea how it operates. My first knowledge of the Federal Employers Liability law, which covers the rights of railroad employees engaged in interstate commerce, began many, many years ago and happened about a month before I was separated from a job as conductor on the Northern Pacific due to my activity in behalf of a full crew law in the state of North Dakota. At that time a boy by the name of Dick Brown, who I had worked with many years, had his right arm amputated at the shoulder. He was working on the local. They were taking a bunch of gravel cars into a sandpit and had run around them on the passing track and were backing up to go down in there and shove these cars into a spur track. Dick was riding on the caboose behind the engine and they were proceeding down the track when an air hose burst, jerking him off the platform onto the track so that the wheels passed over his right arm and it had to be amputated at the shoulder. Shortly after the operation, the claim agent called on him and began to discuss settlement. Of course, the

* EXPLAINS IMPORTANCE OF LEGAL AID—Text of an address by Brother S. C. Lush, former Manager of the Legal Aid Department and now deceased, before a group of 275 Delegates and others at the Ritz Plaza Hotel, Miami Beach, Fla., October 30, 1946.

claim agent told him that the railroad company was heart-broken to think that he had sustained this terrible injury and that they were also particularly put out because of the fact that the law was such that he had no legal cause of action against the railroad and, because of that fact, it was going to be impossible for them to make any substantial settlement in his behalf. However, out of the generosity of their heart, they were going to take \$2,800 and give it to him as a present. Now Dick knew nothing about his rights under the law and he accepted the \$2,800.00 as the claim agent had convinced him that a bursted air hose was a hidden defect, or one that it was impossible for the railroad company to find and, therefore, he said that, under the law, the company was in no way liable. About a month after they had settled with Dick Brown for \$2,800.00, I learned that the United States Supreme Court had said, in

[Photograph of S. C. Lush]

a similar case, that a bursted air hose was a Safety Appliance defect because, they said, evidence presented in this particular case showed, what you and I all know, that a spongy hose is an indication that the hose is going to blow out shortly and that, if the railroad company had made proper inspection, they would have been able to determine that they had a defective air hose on this car and the court held the railroad company was legally liable for all his damages. Had Dick Brown known that, instead of accepting \$2,800.00, he would have received probably \$28,000.00 or more for his injury. That incident created my interest in the rights of railroad employees under the Federal Employers Liability Law.

That law, as amended, covers practically every man working in train and yard service because there are very, very few such employees, if any, who are not, in some way in their work, closely associated with interstate commerce and if you are and you are injured, then your rights are governed by that law.

I know that many of our members have the idea that they are governed by compensation laws, that is the compensation laws in the various states—that is not true. You come under the Federal Employers Liability law because you are engaged in interstate commerce or other commerce so

closely related thereto as to become a part of it. I am happy that you are not governed by the compensation laws and I think that you will agree with me when I briefly tell you why. Under the compensation law, so-called, and wrongly so, because I have never heard of one of them that compensates, there is only one benefit over the Federal Employers Liability law and that is this: No matter how you are injured, if you are on the property of the company and injured in the course of your employment, regardless whether the company is at fault or not, you receive the amount provided for by the law. However, the bad part of the law is that it provides not for compensation but only relief. They pay you a small part of your salary for a limited time and that is particularly true if there be a serious injury such as the amputation of an arm or leg. They will pay you for so many weeks or approximately three years and you receive that compensation every two weeks which is only part of the money you have lost because of that injury, and at the end of that period, you cease to receive these benefits, yet your arm or your leg doesn't grow back and you continue to have the disability. That is the feature of the so-called compensation laws which make them undesirable for railroad employees.

Under the Federal Employers Liability law, while it is true you must first be able to prove that the railroad company caused your injury in some manner, and remember this, many of our brothers have a mistaken idea that the mere fact that they were injured on duty through no fault [fol. 784] of their own the railroad company is liable but that is not true. You must prove that the railroad company caused your injury either because they violated some law that was passed for your protection or that they did not give you a safe place to work, or some employe did something that he should not have done or failed to do something that he should have done. You have to show that they are to blame in some way.

I have been connected with this character of work with Tom Davis or the Legal Aid Department for over 25 years and I am, therefore, in a position to speak to you in regard to the number of employes in train and yard service who are injured as a result of the fault of the railroad

company. I think we can safely say that 99 per cent of the injured men I have heard of were injured through the fault of the railroad company and that the company was legally liable; if you were able to establish those facts. The peculiar thing that I find is that many, many of our members and a majority of them particularly in those sections where they have not become familiar with the Legal Aid Department of the Brotherhood and their own rights, seem to be laboring under the idea that a railroad company hires claim agents for the purpose of paying the injured members money. Now the railroad company hires claim agents for exactly the reason they hire brakemen, switchmen and conductors—they hire them in order to make money. If you will just stop to think a minute, you will agree that there is no possible way that a railroad company could get any money from a claim agent. There is no revenue received through that department but there is a very good reason why they are there or they would not have them on the job. If they were going to pay you all that you are entitled to under the law, all they need do is to have the trainmaster, superintendent or someone else find out how the accident happened and then send you a check for the amount to which you are entitled. But they have found out that they can make money by taking advantage of your ignorance and settle with you for a very small amount of money. If a claim agent is not successful in doing that or in settling a large majority of his cases with the employes at much less than you are entitled to under the law, he will be in exactly the same situation that a conductor finds himself when he is unable to get his trains over the road as fast as others, or a switchman who is unable to put cars over the hump like others, and that is, he will find himself out of a job. It is the claim agent's bread and butter to do what? Not to pay you what you are entitled to, but to keep you from getting every dime of it that he can and he is hired for just that. Yet our men are taken in when they come around and tell you how sorry they are. Perhaps they are sorry that a man is injured but it doesn't reach as far as the check book.

I want to warn you on this point—if anyone of you are so unfortunate as to sustain an injury, the one thing not

to do is to give a statement to a claim agent, because his only purpose in getting the statement is to get something in there which will make it appear that the railroad company is not liable. I don't care how clever you are, in telling your story to him you will find that when it is written up it will appear to you as being just about what you said but if you get some lawyer that knows the law, you will find that you didn't say what you thought you had said, or what the claim agent wrote out was not just what you thought that it said. He will twist the language around in such a way as to make it appear that the railroad company was not to blame. Just to give you an illustration of what I am driving at: You know and I know that the average man in railroad service does not appreciate the fact that in order to have a defective coupler it is not necessary that that coupler be broken. The mere fact that a coupler will not automatically couple or uncouple without a man going between the car ends makes it a Safety Appliance defect. In other words, in connection with automatic couplers, the law provides that the railroad must equip its engines and cars with automatic couplers which will couple automatically by impact and uncouple without the necessity of men going between the ends of the cars and that law means just exactly what it says. If you are going to make a coupling or the coupling fails to make, or a drawbar is out of line and you see that it won't make and you pull it into line or you see that the knuckle doesn't swing open and you pull the knuckle open, or the lock block doesn't drop and you go in between the ends of the cars to jiggle down the lock block, and you become injured as a result, you have a clear case against the railroad because they have violated the automatic coupler law. The mere fact that you had to go in there and adjust it makes it a violation of the law. If they violate that law and you are injured, they have no defense. They may go into court and say, "Yes, we did that but we have a rule that provides that the men will not go between moving cars or that the men will separate the cars so many feet before going in between them to adjust couplers," but this will not help them because if they caused you to be injured by having a defective coupler, they do not have the privilege of

bringing in the rule or mention the fact that they have such a rule. Why? Because if they had not violated the law, it would not have been necessary for you to be in there. The mere fact that that coupler was defective protects you from any wrong that you did as a result of their failure to provide you with a coupler that worked in accordance with the law. I have talked to a lot of men about this and they'd make mention of a sharp curve where a coupling would not make without pulling the drawbar over. Now the law doesn't say a thing about a sharp curve and it makes no difference about the sharp curve. When you go to the corner of a car and push the lever down or pull the pin up and the knuckle doesn't kick open or the drawheads don't line up so you can back up the cars and they will couple and you have to go in to adjust those things by hand and you are injured, you have a cinch case against the railroad. How does the claim agent get around that? He comes to you and you tell him what happened. When he writes up the statement he will say to you, "Was there anything broken about the coupler?" and there wasn't, as the only trouble with the coupler was that it was out of line or the knuckle did not open and you say to him, "No." When he writes up the statement, he doesn't say that it was not broken but puts the words into your mouth and says "there was no defect." You didn't know the law and that it was a violation of the law to have an inoperative coupler and you sign such a statement. When you do that you relieved the railroad company of responsibility because you said that there was no defect. That is but one of the many angles that you must guard against. When you are injured, do not sign a statement. Some railroads, and that is most of them, require you to make a report when injured and it is a violation of their rules if you didn't. In telling of the injury you can say that you were injured at a certain time, at a certain place and received a certain injury and when they ask you how you were injured and who is to blame and all the other questions, just leave them blank as they are only getting you to put something in there that can be twisted around when the claim agent comes around to get a written statement.

There is another important thing to remember: Should you be so unfortunate as to have an injury, get information of it to your lodge officers so that your secretary can send a report to the Grand Lodge at Cleveland, telling [fol. 785] them about your injury and how your accident happened. If they should call you in for an investigation, tell them that you are willing to go into the investigation but that you want your general chairman to represent you. Now why should you say that? It is not likely that you need the general chairman but do this in order to delay it so that you will have time enough to contact the legal counsel. When you tell him how you were injured, he will be in a position to tell you in what way the railroad company is liable and in 99 cases out of a hundred they are responsible for your injury. Then you will know what your rights are under the law.

Very often we find men making out statements that they were injured because their feet slipped off the brake platform. I have worked around box cars for fourteen years and I never heard of a man slipping off a brake platform. I have heard of a lot of men being thrown off. Now the law covering hand brakes is so simple. All there is to it is one thing: The law provides that the railroads must equip their cars with an efficient hand brake, and that is all there is to the law, so when you get up there to release the brake and it kicks you off, maybe your feet do slip but that wasn't the cause—it was because of an inefficient hand brake. When you go to the hand brake and the chain is wrapped around in a ball on the staff and you take the last quarter turn and it lets go and you lose your balance and fall from the brake platform, you were thrown off because of an inefficient hand brake. The claim agent gets your statement and he will have it that you slipped.

Those are a few of the things to keep in mind why you are not competent to give a statement to a claim agent or anyone else until you have received legal advice from someone that knows the law as well as the claim agent. The railroad company has hired these men because they know the law and they have a staff of attorneys waiting for you to get injured so as to protect their rights. They are not protecting your rights but they are in there to take away

these rights to which you are entitled. Now you can't get a dime that the law does not provide for and they are waiting for you to be hurt so they will be on the job, knowing more about the law than you do, in order to keep for the railroad company some of the money that you are entitled to under the law.

Just as soon as you hear that a brother is injured, get a report to Cleveland. The injured man should then ask legal counsel whether or not the company is liable and if so, in what way and he is then in a position to tell him what his rights are under the law and the regional counsel is also in a position to tell you something about what the value of your case is so that you are not at the mercy of a claim agent.

Before the Legal Aid Department was set up, there were three good reasons why we needed the department. Prior to the time that we had a Legal Aid Department to represent our members, our members were not only confronted with the danger of the claim agent but others. While many, many lawyers in the personal injury field would be honest and, if a man asked him what his rights were, they would tell him, in some cases without charge and they were reliable. But many, many other lawyers, who pretended to be honest and upright men in that profession, were interested in the fee and they preyed upon the fellows who were injured who had no case against the railroad. That is, perhaps, in the one per cent of the cases where the railroad company was not liable. These fellows knew that the company was not liable and knew that if it was taken into court they could not collect a nickel but because the railroad company had offered a man, who had lost his hand or foot, say \$3,000 or \$5,000, they would, under their contract, get 30, 40 or 50 per cent of the money that he would have gotten from the railroad company when they knew they could not help him one bit. That was why President Whitney put this proposition up to the lodges in 1930 when the Legal Aid Department was established.

If you have a minor injury, under Brotherhood law you have the right to refer that case, under General Rule No. 5 of the Constitution, to the lodge for action just exactly the same as if you had a run around. Any claim for pay

for minor injuries can be referred to your local grievance committee just the same as a claim for a run around or other loss of pay. If the local committee is unable to settle it you refer it to the general chairman. If he is unable to settle it, it can be referred to the legal counsel if it is for only a hundred dollars. The railroad companies see that when they get into the habit of settling minor claims for 50 per cent, it is a build-up to settle the big cases for much less money. No matter what the size of the claim which the railroad refuses to pay when they are liable, they should be forced to pay 100 per cent in all of them and they soon will find out that they can't afford to go into court and fight the small cases. I know of men who have said that if they did that they would lose their jobs, that they have a considerable number of years' rights and that they are not going to sacrifice those rights for say \$50.00. Now, you needn't worry about those rights as they don't dare to fire you because you brought suit; that is your constitutional right and no railroad has a right to take it away from you and the President and the Brotherhood of Railroad Trainmen will use its strength to get you back on the job and will get pay for you if they do. We have seen a few cases where that did happen and they went to the Board and the Board made the railroad company put them back, with pay. I know of a case of a switchman where the ball of the switch hit his foot and he suffered a broken toe. They offered the general chairman half-time and the case was turned over to the legal counsel and he had only lost 30 days. The case came up for trial and the man was working from 11 p.m. to 7 a.m. He went to court and worked that night and the next day the jury brought in a verdict of \$3,000 and he is working on the job today. I can tell you of fifty more such cases and you needn't worry about that part of it.

Another thing that concerns the men is when a representative of the Legal Aid Department comes to them when someone has been unfortunate enough to sustain an injury and he asks them for a statement as to how the accident happened. Now I know that on some of the railroads, notwithstanding the law, they have in their rule books a rule which says that you will be discharged if you give

information with regard to anyone being injured to anyone other than an officer of the railroad company. You needn't worry about that. They got away with that a long time but not any more because on August 11, 1939, our good friend President Roosevelt signed a bill, an amendment to the Federal Employers Liability law which stops anything of that kind. It is short and I am going to read it to you, it is Section 60:

Sec. 60. (Federal Employers' Liability Act)—Penalty for suppression of voluntary information incident to accident; separability clause.

Any contract, rule, regulation, or device whatsoever, the purpose, intent, or effect of which shall be to prevent employes of any common carrier from furnishing voluntarily information to a person in interest as to the facts incident to the injury or death of any employe, shall be void, and whoever, by threat, intimidation, order, rule, contract, regulation, or device what- [fol. 786] soever, shall attempt to prevent any person from furnishing voluntarily such information to a person in interest, or whoever discharges or otherwise disciplines or attempts to discipline any employe for furnishing voluntarily such information to a person in interest, shall, upon conviction thereof, be punished by a fine of not more than \$1,000 or imprisoned for not more than one year, or by both such fine and imprisonment, for each offense: Provided, That nothing herein contained shall be construed to void any contract, rule, or regulation with respect to any information contained in the files of the carrier, or other privileged or confidential reports.

So you won't find the officers taking a chance of going to jail or even have the nerve to tell you that you should not give the statement. When our representative comes around and asks you with regard to a statement as to a man's injury, you need not worry about that because the railroad company doesn't dare fire you.

Under this Federal Employers' Liability law, the amount that you can recover for your injury is only limited by the

amount that you can show that you were damaged as a result of the injury. As I have previously pointed out, under the compensation law you get a certain percentage of your salary for a number of weeks and at the end of that certain period you are cut off. Under the Federal Employers' Liability law, you will get all that you lose and in addition, you get paid for the pain and suffering. Under the compensation law, you generally find that a man who loses a foot or a hand will get \$4,200 to \$4,500 and at best \$4,800, that they have handed out in dribbles over three years. Under the Federal Employers' Liability law, our men have gotten \$20,000 to \$70,000 for such an injury, in a lump sum so that he can invest it in some way to provide a livelihood. That is also true when the man is unfortunate enough to be killed on the job. His widow is not limited to a certain amount of money to be paid to her, but she is entitled to a sum of money which, if placed at a reasonable rate of interest, will pay her what she would have received during his life's expectancy and in many cases it has run up to \$48,000 for a widow. So you can see the advantage of this law.

I want to say to you brothers and sisters, bear in mind that this department was established by President Whitney through authority of the lodges for just one purpose, and that was to see that each and every member of the organization, who was so unfortunate as to be injured on the job, received what? Not anything from the railroad that they are not entitled to but what the law says they are entitled to, instead of what a claim agent was able to talk you into taking.

For many years, they got away with many, many cases, where a man was injured because of close clearances. Maybe this man had been by this particular building many times and the building is too close and they have a sign up there reading "Close Clearance." If he was unfortunate enough to forget that the building was too close, or the smoke was blowing down and he couldn't see it, or with that small light in his lantern he was not able to see that building, and he was brushed off and injured, you could not collect a dime because the company said that you knew about it and under the old law you could not collect. In 1939, this law

was amended so by putting that sign up there, the railroad company demonstrated that they knew it was a close clearance. If you are injured under those circumstances, the company knew of this danger and they didn't give you a safe place to work, their defense of your assumption of risk is gone and you have a good case against the railroad.

Those are some of the things that you must keep in mind. I could talk on and on about these cases but this department is here to help you. It doesn't cost you a plug nickel for this help. If you will consult with the regional counsel, who will get all the facts and who knows the law, then I dare say that in 99 out of every hundred cases, you will find that the railroad company is legally liable and you will get all that you are entitled to under the law. If you will do that, your rights will be protected and in those places where our members have done this the amount of settlements made direct without a lawyer have gone up by leaps and bounds, while in other parts where they do not do this, they are still making 50 per cent settlements and the railroads getting away with it because those men didn't know what their rights were and have not protected themselves.

Frequently, a claim agent will say to a woman who has lost her husband, "If you want to give it all to a lawyer, that is all right," and that woman often is influenced into believing it. Now under the provisions of the operation of the Legal Aid Department, no woman or child ever gives any lawyer, representing the Brotherhood of Railroad Trainmen, any part of what she is offered by a railroad, as it is provided that they take it on a 25 per cent basis. To illustrate that point: Last year, there was a case in a little town in Iowa and that man had a case of absolute liability. The claim agent said that they would give \$10,000. Our legal counsel told the widow: "Under the law, you and your children are entitled to at least \$40,000.00. We will take your case and you will get the \$10,000 and we will take it on half of the rest or 25 per cent of the settlement or verdict," and that case was settled in less than five months for \$35,000 and that woman received \$27,000. Now she didn't give the lawyers any part of the money that the railroad was going to give her if she had taken the \$10,000 offered

by the company, but she received \$27,000. Who paid the lawyer? The railroad paid the fees, and the woman and children are being protected.

Let me say one more thing about this Legal Aid Department. The lawyers are not by any means the most important part of the Legal Aid Department. It is provided that we have an investigation department and every investigator is appointed by the President and carries a card of the Brotherhood of Railroad Trainmen. They are railroad men or lawyers, representing the Legal Aid Department and those men go out and investigate these cases and submit the facts to the lawyers representing this Brotherhood without one cent charge to an injured man or the widow and children of the man who is killed, and if the widow or an injured man is offered a settlement to which they are honestly entitled, they are privileged to accept that and that service by this department does not cost the injured one or the widow and children one red penny.

Now when an investigator comes to your lodge or into your town and asks you to assist him, as a member of the Brotherhood, it is your duty to go with the investigator and get the real facts. I thank you. **THE END**

Reprinted from January, 1947, issue,
THE RAILROAD TRAINMAN

[fol. 787]

PLAINTIFF'S EXHIBIT 73A

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

NATIONAL CONFERENCE OF
STATE LEGISLATIVE REPRESENTATIVES

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75 State St
Albany (7), N Y

W E Skinner, Vice-Chairman
349 Park Dr
Pueblo, Colo

Harlan Bell, Secretary-Treasurer
204 Hightower Bldg
Oklahoma City (2), Okla

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INDIVIDUAL RESERVE DEPARTMENT

PROMOTION DEPARTMENT

INSURANCE COUNSELOR
Tom D Eilers (No 237)
Standard Bldg,
Cleveland (13), Ohio

MANAGER
W L Hill (883)
Standard Bldg,
Cleveland (13), Ohio

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 Richmond, Va
 Baldwin, W G (No 78)
 1150 South Evanwood Ave,
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 3330 Jeanette St,
 Wichita, Kansas
 Barnett, V C (No. 1059)
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 Benner, F W (No 43)
 716 N Seventh St,
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 Bilger, C A (No 1023)
 1601 Northern Pkwy,
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 Baltimore (12), Md
 Blagg, R E (No 32)
 1504 Iroquois,
 Pueblo, Colo.
 Brady, W H (No 189)
 324 Pittston Ave,
 Scranton, Pa
 Bridgewater, R E (No 24)
 862 N Cedar St,
 Galesburg, Ill
 Burka, J (No 1106)
 198 Osborne St N,
 Winnipeg 1, Man, Can
 Chapman, O D (No 175)
 Beaver Street,
 Carroll, Ohio
 Choyce, J T (No 145)
 7124 Schley St,
 Houston (17), Tex
 Cunningham, E J (No 489)
 2473 Malone Ave,
 Memphis (14), Tenn

Cunningham, W H (No 656)
 215 Wright Ave,
 Chaffee, Mo
 Davidson, R J (No 309)
 12605 S E Tibbetts St,
 Portland (36), Ore
 Eberhard, H F (No 709)
 1346 Second Street North,
 Fargo, N D
 Eidson, B H (No 997)
 Rt 1, Zehner School Rd,
 Zelenople, Pa
 Estes, R J (No 1128)
 P O Box 906,
 2306 Eleventh St,
 Meridian, Miss
 Finnerty, T J (No 14)
 609 Inverness Ave,
 Mount Royal (16),
 Montreal, Que, Can
 Fredericks, P E (No 800)
 145 N Glenwood Dr,
 El Paso, Tex
 Fullington, F V L (No 97)
 448 East St,
 East Weymouth, Mass
 Gallion, E C (No 257)
 5435 Edwards Ave,
 Pennsauken (8), N J
 Gray, J E (No 109)
 1326 N Third St,
 Logansport, Ind
 Griswold, S C (No 659)
 Box 673,
 Sherman, Texas
 Haddock, J S (No 649)
 1808 Park Dr,
 Columbus, Ga

Hawes, J W (No 949)
 P O Box 22,
 Orange, N J
 Holmes, B F (No 99)
 5724 Woodward,
 Merriam, Kans
 Hunter, H L (No 550)
 826 Lakeview Ave,
 Salem, Va
 Ingersoll, C E (No 999)
 Box 2033,
 Anchorage, Alaska
 Jacob, E A (No 385)
 764 S Plymouth Blvd,
 Los Angeles (5), Calif
 Kayser, L M (No 24)
 110 East North St,
 Galesburg, Ill
 Kent, W C Jr (No 530)
 5590 Red Bank Rd,
 Cincinnati 27, Ohio
 Kilpatrick, H (No 923)
 46 Warbury St,
 St Johns,
 Newfoundland, Can
 Kirk, C C (No 114)
 Plaza Hotel,
 Toledo (2), Ohio
 Koder, E Jr (No 943)
 12125 Larimore Rd,
 St Louis (38), Mo
 Life, C C (No 140)
 20700 Randolph Pkwy,
 Box 825,
 Cleveland (22), Ohio
 Lobred, S S (No 156)
 5910 Dutchmans Lane,
 Louisville (5), Ky
 McGurn, J J (No 164)
 708 Herkimer Rd,
 Utica, N Y

McLeod, A (No 34)
 105 Vachon St,
 East View, Apt 2,
 Ottawa, Ont, Can
 McNamara, R W (No 1071)
 15624 Markese St,
 Allen Park, Mich
 Murken, J G (No 1047)
 21-78 29th St,
 Astoria, L I, N Y
 Phillips, L L (No 84)
 1001 W 50th St,
 Ashtabula, Ohio
 Ramsey, C E (No 146)
 P O Box 179,
 1471 Lincoln Ave,
 Calumet City, Ill
 Rudin Ed (No 524)
 5305 Hohman Ave,
 Ste 601,
 Hammond, Ind
 Snelgrove, R C (No 759)
 167 Havelock St,
 Toronto (4), Ont, Can
 Snider, G S (No 160)
 5768 Oxford St,
 Philadelphia (31), Pa
 Tanner, H C (No 313)
 701 Portal Pl,
 Palo Alto, Cal
 Tipple, E R (No 177)
 4002 Dempsey Rd,
 Madison (4), Wis
 Woodling, H E (No 1062)
 P O Box 25,
 Java Center, N Y
 Zetzsche, C W (No 293)
 2346 Tyler Ave,
 Ogden, Utah

DEPARTMENT OF LEGAL COUNSEL

C R Maher (No 583) Chief Clerk
Standard Bldg, Cleveland 13, Ohio
LEGAL COUNSEL

Jan. 1959

Davis, Maurice M (No 81)
1601 American Investors Bldg,
Houston, Tex (See Jacobs,
Davis & Schmidt)
Dunn, J Murray (No 143)
707 State Tower Building,
Syracuse 2, New York
Dunn, J Murray (No 143)
810-812 Western Savings
Fund Building,
Broad-Chestnut Streets,
Philadelphia 7,
Pennsylvania
Feeney, Joseph F (No 97)
114 State Street,
Boston, Massachusetts
Henslee, Edward B
(No 826) and
Henslee, Martin K
(No 826)
Suite 810,
139 N Clark Street,
Chicago 2, Illinois
Hildebrand, Clifton
(No. 71)
1212 Broadway,
Oakland 12, California
Hildebrand, Clifton
(No 71)
639 So Spring Street,
Room 904,
Los Angeles 14, California
Jacobs, W States, Jr
(No 228),

Davis, Maurice M
(No 81) and
Schmidt, George L
(No 145)
1602 American Investors Bldg,
Houston 2, Texas
Lewis, Tom J
(No 720) and
Lewis, Tom J, Jr
(No 720)
909 Healey Bldg,
Atlanta 3, Georgia
Lush, Philip B
(No 525) and
Davis, Tom (No 525)
850 Baker Building,
Minneapolis 2, Minnesota
McGlynn, Dan (No 395)
120 N Main Street,
East St. Louis, Illinois
Ramsey, Wallace W
(No 717),
Ramsey, William W
(No 717) and
Ramsey, James B
(No 717)
711 First National
Bank Bldg,
Vicksburg, Mississippi
Ratner, Payne H
(No 857) and
Ratner, Payne H, Jr
(No 857)
444 N Market Street,
P O Box 306,
Wichita, Kansas

Rawlings, Calvin W
(No 941)
530 Judge Building,
Salt Lake City, Utah
Rerat, Eugene A
(No 464)
610 Baker Building,
Minneapolis 2, Minnesota
Rives, Al G (No 590)
10th Floor
Massey Building,
Birmingham, Alabama
Savage, Bernard M
(No 124)
3100 Mathieson Bldg,
Baltimore and
Light Streets,
Baltimore, Maryland

Yaeger, Carl L
(No 525) and
Carl L, Jr (No 464)
715 Foshay Tower,
Minneapolis 2, Minnesota
Zelenko, Herbert
(No 598) and
Elkind, Arnold B
(No 1047)
285 Madison Ave,
New York 17, New York

[fol. 788]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 73-B

DIRECTORY

OF THE

GRAND LODGE and
SUBORDINATE LODGES

OF THE

BROTHERHOOD OF
RAILROAD TRAINMEN

(Brotherhood Railroad Trainmen symbol)

JANUARY, 1960

Issued January, April, July and October

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[fol. 789]

SUBORDINATE LODGES

B—Bus Lodge

B & R—Bus and Rail

P—President. S—Secretary. T—Treasurer. C—Collector.

R—Legislative Representative. LC—Local Chairman.

Legislative Representative is also Local Chairman,
shown as : LC&RWhere number follows address, it indicates city postal zone
and should be included in address.[fol. 790] 190—CHADRON, NEB., Black Hills, 2nd Sun,
2 pm, I O O F Hall, 207 Moorehead St. (Org. 1-27-86.)

C R Adkins, 520 Shelton St. P

F H Waggener, 108 N Morehead St. S&T

R J Groves, 236 N Chadron Ave. R

G S Ballieu, 114 Lake St. C & N W LC

[fol. 791] 261—INDIANAPOLIS, IND., Hoosier, last Tues,
odd months 10 am, even months 7 pm, G A R Hall,
1714 E Washington. (Org. 7-29-88.)

G E Agal, 4031 E Minnesota St (3) P

H F Romeril, 1531 E Ohio St (1) S

W Y Matthews, 3233 N Bolton Ave (19) T

H E Platt, 11119 E Wash (29) P Co (W) Col LC&R

B W Havercamp, 7330 So East St (27)

..... P Co (W) St L Div LC

H D Daugherty, 531 N Keystone Ave.

..... P Co (W) IV LC

G P Rummel, 3720 N Butler Ave. P Co (W) Ind Yd LC

Paul Richmond, RR #1, Pittsboro, Ind.

..... W R R R LC

[fol. 792] 1124—MACON, GA., Ocmulgee, 3 pm, 2nd & 4th
Sun, 4th floor of the Professional Bldg, 830 Mulberry St.
5th Sun, 3 pm, Columbus, Ga, 6th Ave between 8th &
9th Sts. (Org. 3-24-58.)

B G Byington, 4131 Eden.....P

R S Hatcher, 4540 Lakewood Ave.....S&T

G L Slocumb, 3246 Arnwood Ave.....R

C J Maxwell, 2338 Lasseter Pl.....C of Ga (Yd) LC

T H Howard, Apt K-9 Winship Gardens.....

.....C of Ga (Rd) LC

• • • • •

[fol. 793]

GENERAL GRIEVANCE COMMITTEE ORGANIZATIONS

RAILROADS

C—Chairman S—Secretary

• • • • •

[fol. 794] CENTRAL OF GEORGIA RY

B G Byington (No 1124) Rm 300, Professional Bldg,
Macon, Ga.....C

H H Epperson (No 376) 3700 Pine Forest Rd,
Macon, Ga.....S

• • • • •

954

[fol. 795]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 74-A

DIRECTORY

OF THE

**GRAND LODGE and
SUBORDINATE LODGES**

OF THE

**BROTHERHOOD OF
RAILROAD TRAINMEN**

(Brotherhood Railroad Trainmen symbol)

JANUARY, 1961

Issued January, April, July and October

• • • • •

[fol. 796] 71—OAKLAND, CAL., Western Shore, 2nd Mon,
10 a m, 4th Tues, 8 p m, B of R T Hall, 1833—7th St,
(Org. 3-2-85)

V P Sewell, 2251 Pacific Ave, Alameda, Calif.....P
L L Varner, 1325 Belding St, San Leandro, Calif.....S
J H Amaral, 2727 E 23rd St (1).....T
J E Teague, 357 Vernon Ave, Apt 203 (10).....
.....S P (Pac) (Pass rd) LC
S B Rider, 1833—7th St (20).....S P (Pac) (Frt-rd) R&LC

[fol. 797] 124—BALTIMORE, MD., Fraternity, 1st Tues,
7 pm, 3rd Tues, 10 am, Red Men's Hall, Hickory Ave &
36th St. (Org. 3-27-89.)

M P Walsh, 3027 Keswick Rd (11).....P
N W Tingle, 1651 Northbourne Rd (12).....R&S
H A Bowman Jr, 412 Elmwood Rd (6).....T
J J McCorkle, 3017 Pinewood Ave (14).....P Co (E) LC
P D Stouffer, 1416 Patapsco St (30).....W M LC
J H Baier, 6939 Eastbrook Ave (24).....C RR Co LC

[fol. 798] 160—PHILADELPHIA, PA., E. T. Hay, 2nd Tues,
10 am, 4th Tues, 8 pm, PRR Post #204 Amer. Leg.,
3325-35 Market St., (Org. 10-4-85.)

J S Mink, 215 N 7th St, Darby, Pa.....P
J A Coffey, 5331 Willows Ave (43).....S
J J Farrell, Rm 249 Middle City Bldg, 34 S 17th
St (3).....T
W Siess, 402 W Ashland Ave, Glenolden, Pa.....R
J J Hoy, 4027 Ellendale Rd, Drexel Hill, Pa.....
.....P Co (E) Phil Ter LC
R Snauffer, 4717 Hazel Ave (43).....
.....P Co (E) W B Div LC

[fol. 799] 261—INDIANAPOLIS, IND., Hoosier, last Tues,
odd months, 10:30 am, even mos 7:30 pm, G A R Hall,
1714 E Washington. (Org. 7-29-88.)

G E Agal, 4031 E Minnesota St (3).....P
H F Romeril, 5324 Primrose (20).....S

W Y Matthews, 5941 East 24th St (18).....T
 H E Platt, 11119 E Wash (29).....P Co (W) Col LC&R
 B W Havercamp, 7330 So East St (27).....
P Co (W) St L Div LC
 H D Daugherty, 531 N Keystone Ave.....
P Co (W) IV LC
 R D Carrico, 1605 E Iowa St (3).....P Co (W) Ind Yd LC
 Paul Richmond, RR #1, Pittsboro, Ind.....
W B R R LC

[fol. 800] 318—ANDERSON, IND., C. H. Reno, 1st Tues,
 3rd Sun, Marine Dr, I O O F Hall. (Org. 9-11-98.)
 W E Wright, RR #1, Box 306D.....P
 R D Morris, 4605 Madison Ave.....S&T
 R G Stone, 211 E 37th St.....R
 Fred Harmon, 6820 Sherman St.....N Y C (S) LC

[fol. 801] 699—INDIANAPOLIS, IND., Bill Lee, 1st Mon,
 1:30 pm, 3rd Mon, 7:30 pm (3rd Mon only July, Aug,
 Sept), I O O F Bldg, 2826 N Sherman Dr. (Org. 7-29-28.)
 H H Lykins, 3001 N Drexel (18).....P
 F M Grable, 2184 N Gale St (18).....S
 D W Harrington, 3620 N Bancroft St. (18).....T
 P C Williams, 2406 N Sherman Dr (18).....R
 W R Imel, 3724 N Oxford St, N Y C (S) (Ohio Div) LC
 R M Crago, 3822 Wildwood Dr (19).....
N Y C (S) (Ill Div) LC

[fol. 802] 1050—HORNELL, N. Y., Peter A. Maloney, last
 Wed, 7:30 pm, Republican Club Rms 132 Main St, 2nd
 Floor. (Org. 7-11-50.)
 H G Freeland, 49 Erie Ave.....P
 F M Wattles, 19 State St.....S&T
 Robert Kerr, 413 Monroe Ave.....R
 L A Pickard, 94 E Washington St.....Erie (Yd) LC

[fol. 803]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 74-C

DIRECTORY

OF THE

GRAND LODGE and
SUBORDINATE LODGES

OF THE

BROTHERHOOD OF
RAILROAD TRAINMEN

(Brotherhood Railroad Trainmen symbol)

JULY, 1961

Issued January, April, July and October

[fol. 804] 183—CLINTON, Iowa, Hand-in-Hand, 1st-3rd
Mon, 7:30 pm, Clinton Labor Congress Hall, 613 So. 2nd
St. (Org. 14-86.)

J L Mullen, Jr, 2436 Dunham.....P

R L Townsley, 421 So 14th St.....S

A P Tancik, Delmar, Iowa.....T

[fol. 805] R L Callahan, 748—14th Ave So.....R

E A Stouvenal, 909 So 5th St.....C & N W Rd LC

R H Ehredt, 568—12 Ave So.....C & N W Yd LC

[fol. 806]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 75

(Letterhead of Brotherhood of Railroad Trainmen,
Cleveland, Ohio)

March 16, 1959

WPK-z

To All Legal Counsel,
Brotherhood of Railroad Trainmen.

Dear Sirs and Brothers:

Some time ago, I sent you a copy of the opinion of the Supreme Court of Illinois in a case in which the Brotherhood of Railroad Trainmen asked the Court of Illinois for a ruling as to what the Legal Aid Department of the Brotherhood can do for its injured members and the conduct that should be followed by Legal Counsel of the Brotherhood.

Under date of March 20, 1958, the Supreme Court of Illinois handed down its opinion which is found in volume 13, 2nd Edition of the Illinois Supreme Court reports on page 291.

In compliance with said opinion, any Legal Counsel who represents the Brotherhood is hereby instructed, and required, to live up to said opinion in its entirety, and any violation shall be cause to remove said attorney, and the same shall be reported to the Bar Association of the particular state in which such violation may occur.

The Brotherhood will finance its Legal Aid Department, and will investigate accidents so that it will be acquainted with the cause of said accidents, and by so doing will be able to remedy any violation of the Federal Employers' Liability Act and The Safety Appliance Act. The result of such investigation shall be made available only to the injured person.

Please arrange to comply with these instructions on and after April 1, 1959, and acknowledge receipt of this letter by return mail.

Fraternally yours,

W. P. KENNEDY
President.

[fol. 807]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 76

(Letterhead of Bernard M. Savage, Baltimore, Md.)

March 17, 1959

Mr. W. P. Kennedy, President
Brotherhood of Railroad Trainmen
1370 Ontario Street
Cleveland, 13, Ohio

Dear President Kennedy:

I have your letter of March 16th addressed to all Legal Counsel, instructing them to comply with the decision of the Illinois Supreme Court dated March 20, 1958. Of course, I shall do so.

Fraternally yours,

/s/ BERNARD M. SAVAGE
Bernard M. Savage

BMS:RT

[fol. 808]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 77

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.:

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES

No. 727 273

SOUTHERN PACIFIC COMPANY, a corporation,
Plaintiff;

vs.

CLIFTON HILDEBRAND, et al.
Defendants.

W. P. KENNEDY, individually, and in representative capacity for and on behalf of the BROTHERHOOD OF RAILROAD TRAINMEN, an international labor organization, its officers and members,

Cross-Complainant;

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, a corporation; SOUTHERN PACIFIC COMPANY, a corporation, ASSOCIATION OF AMERICAN RAILROADS, an Illinois corporation; and DOES 1 to 400, inclusive,

Cross-Defendants.

The deposition of WILLIAM P. KENNEDY, a witness herein, taken on behalf of the Plaintiffs, at 1:30 o'clock, P. M., Wednesday, October 5, 1960, at Suite 810, 139 North Clark Street, Chicago, Illinois, before Irving Ross, a notary public in and for the County of Cook, State of Illinois, pursuant to stipulation.

[fol. 809] Examination.

By Mr. Biezensahn:

Q. Will you state your full name?

A. William P. Kennedy.

[fol. 810] Q. For how long have you been President?

A. Since July, 1949.

Q. Will you indicate what your role in the Brotherhood was, prior to that time? What offices did you hold?

[fol. 811] A. Prior to that time, I was a General Secretary and Treasurer.

Q. During what period was that?

A. For a period of time from 1947 to 1949.

Q. And, prior to 1947?

A. I was Vice-President in the western part of the United States for the period of September, 1936, to the day I became General Secretary and Treasurer.

Q. Which was 1943, if I recall?

A. No; it was 1945.

Q. And, prior to 1936, what office did you hold?

A. I was General Chairman on the Milwaukee Railroad lines east.

Q. When did you first become General Secretary for that system?

A. I became General Chairman for that system in April, 1921.

Q. And, prior to that time, had you been active in the union's affairs?

A. Yes.

Q. In what capacity?

A. As Local Chairman, Local Job Service, since 1910—fifty years ago.

Q. From the time you became General Chairman for [fol. 812] the Milwaukee lines east, did you devote your full time to the Brotherhood's activities?

A. I have devoted my full time to the Brotherhood's activities since I became General Chairman, back in 1919.

[fol. 813] The President is in charge of all matters relating to wages, rules, rates of pay, working conditions. He is in charge of the financial affairs of the Brotherhood; the purchase of bonds, and the purchase of securities.

He (the President) is the President of the corporation in charge of the Insurance Department. I would say, in general, under our present constitution, he is in charge of all of the various departments and functions of the Brotherhood.

Q. I assume, from what you have said, it is the President who has charge of litigation in which the Brotherhood is interested?

A. If litigation is prompted by the Brotherhood, it would be under his general direction. If the litigation comes from opposite parties, against the Brotherhood, it is up to the President of the Brotherhood to decide how it will be defended.

Q. And it is he who directs counsel appointed by the Brotherhood in their efforts, in such litigation?

A. All counsel for the Brotherhood, in all its official [fol. 814] capacities, is appointed by the Brotherhood.

Q. And, in substance, under the direction and supervision of the President?

A. Yes, sir. In other words, we have a Legal Department within the Grand Lodge, because of so many different problems. We employ a General Counsel, an Assistant General Counsel, and an Assistant to the General Counsel.

There are a number of employees in that department.

Q. I understand. But, during the term of your presidency, or during the period in which you have been President, Mr. Kennedy, in those cases where the Brotherhood has been named a defendant, or otherwise been made a party to various proceedings in the various states, it is you who has directed and supervised the conduct of such litigation in behalf of the Brotherhood?

A. Yes. We come within the scope and jurisdiction of the President.

[fol. 815] Q. To your knowledge, has the Brotherhood, at any time—that is, the Brotherhood of Railroad Trainmen or any of its departments—received contributions from Regional Council?

A. I think that there was an item when the legal department—the so-called legal aid department—was organized, back in the days when my predecessor, Mr. A. F. Whitney, was President.

[fol. 816] I think, at that time, there was some arrangement made by at least certain of the legal counsel to help get the department installed and operating.

But, I will say this now—that at least since April 1, 1959, when the Supreme Court of the State of Illinois rendered their decision, there has been no money come in from any of the legal counsel for payment, or whatever you call it, of any particular claim.

[fol. 817] Q. Did you extend a personal invitation, at any time while President, to any of the Regional Counsel, who were not members of the Brotherhood?

A. No. There were no specific invitations, other than the general invitation that a convention was to be held—the same as all other members of the Brotherhood received.

Q. Even though the particular Regional Counsel may not have been a member?

A. He may not have been a member. He couldn't attend one of our conventions unless he had special permission of the convention, if he was not a member.

Q. So that, you wouldn't extend the invitation to him on a personal basis?

A. If he came to Cleveland, and asked for permission, I [fol. 818] would put it up to the convention. Eleven hundred delegates would decide who was going to attend, if they weren't a member of the Brotherhood of Railroad Trainmen.

Q. Did Regional Counsel, during the period we have confined ourselves to, in the last question, come to the city in which the convention was held?

A. Some of them have.

Q. Isn't it true that a majority of them usually attended? If they did not attend the convention, they were at least present in the convention city?

A. That hasn't always been true, because, when we held our conventions in Miami Beach, Florida, I would say, at no time was there a majority of the legal counsel present.

Q. During that period, that is, from 1949 up until April 6, of 1959, there were how many Regional Counsel?

A. I would say there were approximately twenty.

[fol. 819] Q. Perhaps I can best get at this by briefly describing the organization as I understand it. You can confirm that, or correct me, if I am wrong, Mr. Kennedy.

The Legal Aid Department was set up as a special department of the Grand Lodge of the Brotherhood. That is correct, is it not?

A. That is correct.

Q. And there was put in charge of this department a chief clerk?

A. The President was in charge. He is the one that decided how this particular department would function. All reference came to the President.

In other words, we didn't set up a department that Bill Jones, or John Smith, or somebody else, had exclusive jurisdiction over.

Any correspondence that came to the President of the Brotherhood, that involved this department, was referred to this particular department.

Q. I understand that.

A. The employees in that department, whoever they happened to be—they were the ones who handled it.

Q. I understand that. I understand that the President, at all times, had control and supervision over this department.

A. That is correct.

Q. But, as it was physically set up and organized—office space was provided in the Grand Lodge Headquarters—is that not correct?

A. That is correct.

Q. And there was put in charge of this office a gentleman who was designated as chief clerk?

A. I don't recall what his designation was, at that time. It might have been chief clerk, manager, or something like that. Anyway, there was an employee who was given the responsibility of handling Mr. Whitney's correspondence, with and through that department.

Q. And was the first person appointed to that position Mr. Steve Lush, who is now deceased?

A. He was one of the first ones who was in that department.

Q. And he served up until about the time you became President?

[fol. 821] A. I am not certain as to the years that Mr. Lush served. He died a good many years ago. I am just not sure as to the date of his death.

Q. His successor in that position was, then, Mr. Pinky Lee—is that not correct?

A. Yes. I think that is correct. I think he was the man who went in there later.

Q. And he, in turn, was replaced by Mr. Maher, isn't that correct?

A. Yes, sir.

Q. And Mr. Maher has held this position since about 1950 or 1951?

A. He is in charge of our Research Department.

Q. Prior to April 1, of 1959, he was designated as chief clerk of the Legal Aid department?

A. I think that was his title, yes.

Q. And he held that position from about 1950 or 1951?

A. Whenever it is.

Mr. Maher: The correct date is March 2, 1954.

Mr. Biegenzahn: Q. During the period you have been President, Mr. Kennedy, you, of course, have had control and supervision of this department?

The Witness: A. Yes, sir.

[fol. 822] Q. And you are intimately familiar with the organization and operation of this department?

A. Fairly well; not so much with the details. I am familiar with the general conduct of the department.

Q. Aside from Mr. Maher, there are in this department, then, only secretarial and clerical help, is that correct?

A. That is all; yes.

Q. Mr. Maher is, or has been, for the years since 1954, in any event, the person in charge—and, of course, answerable to you?

A. Yes, sir. That is correct.

Q. At the time the Legal Aid Department was established, Mr. Whitney, then the President, also appointed several attorneys as Regional Counsel—is that correct?

A. Yes.

Q. And, at that time, there were approximately sixteen such Regional Counsel appointed?

A. That is correct.

Q. Each of these persons was assigned a certain geographical area in which he was to act as such Regional Counsel, is that correct?

[fol. 823] A. Generally speaking, that is the way it was handled at that time, yes.

Q. And this arrangement continued right down to the time the change was made, on April 1, of 1959—essentially?

A. I started to make changes a number of years ago. But, the entire department was changed as a result of the Illinois decision.

Q. Now, at the outset, under the understanding with the Regional Counsel—correct me if I am wrong—they would represent such members of the Brotherhood as might retain them, in connection with personal injury and death claims arising out of railroad employment. Is that correct?

A. To some extent, that was so. However, after I became President, I insisted that the Legal Counsel would represent the Brotherhood in all of its problems, other than Legal Aid, or anything else.

Under my direction, I gradually designated each legal counsel to handle all of the injunctions, all of the law suits, all of the problems that we have, in their respective cities.

Q. That was true, when you became President—that [fol. 824] these changes were made?

A. Yes, sir.

[fol. 825] Q. So that, at least so far as this phase of the Legal Aid Department's function is concerned, it was not changed in April—April 1—of 1959, when the designation of Regional Counsel was changed to that of Legal Counsel?

A. No; it was not changed. Because we analyzed the Court of Illinois' order—and nothing in the constitution conflicts with the order—so we just let it remain.

[fol. 826] Q. Certainly. But, as a matter of instruction, and policy, Regional Counsel were recommended by the local officers of the lodge to the injured members?

A. If they were available, yes; I would say so.

[fol. 827] Q. You were aware, at that time, there was some arrangement between Regional Counsel and the Legal Aid Department, were you not?

A. I didn't know anything about any arrangements that were in effect. I knew they were designated by Mr. Whitney, who was the President then, as the Legal Aid Counsel for the Brotherhood in that particular area.

Q. And either at that time, or since, it has come to your attention that there was some financial arrangement whereby the Brotherhood, and its Legal Aid Department, were reimbursed, either directly by member claimants, or by Regional Counsel—is that not correct?

A. It was my understanding that there was some method set up—at least, there were certain Regional Counsel, of which—when I found out how it applied, I brought about a correction, by canceling all or any part of any payment of any kind, to anybody.

[fol. 828] Q. All right, sir. You became President in 1949, did you not?

A. That is right.

Q. And you had come to know Clifton Hildebrand, before that time?

A. I have known him for a number of years; yes, sir.

Q. How far back does your acquaintanceship extend?

A. I would say, probably, I have known him for twelve to fifteen years.

[fol. 829] Q. So that, at the time you became President, in 1959, you were aware he was one of the Regional Counsels?

A. Yes, sir.

Q. And his territory covered the states of California, Arizona, New Mexico, and portions of Texas—is that not correct?

A. I am not so sure about Texas. I think he did cover the states of California, Arizona, and New Mexico.

Q. Did his territory extend at all into the State of Oregon?

A. I wouldn't know about that.

Q. At the time you became President, you were aware that there was pending in California a State bar disciplinary proceeding against Mr. Hildebrand, and his partners, Mr. Bills and Mr. McCloud, were you not?

A. I understand there was some legal action that had been taken against Mr. Hildebrand that was finally decided by the California Supreme Court.

Q. And you were apprised, generally, of the contents of that decision, were you not?

[fol. 830] A. No; I never knew what the particulars were, with regard to it.

Q. You did know that the arrangement between Mr. Hildebrand, as Regional Counsel, and the Brotherhood, was inquired into?

A. Yes. I understand that was part of it.

[fol. 831] Q. Do you recall, in the year, 1951, certain proceedings were initiated in El Paso, Texas, culminating in a consent decree, in February of 1952?

A. Yes. I remember that was called to my attention.

Q. And the Brotherhood was a party to this proceeding—do you recall that?

A. That is correct.

Q. As President, I take it, you had control of this litigation?

A. I had, at that time.

Q. And you recall that the Brotherhood, through its attorneys, did consent to the decree ultimately entered there?

A. I knew we consented to the decree—but the provisions of the decree have long since been forgotten.

Q. But you, as President, had to inquire into and approve the terms?

A. I think that is correct; yes.

[fol. 832] Q. —and where that state had, by judicial or other action, made known to you that he had violated such laws, that you took action, with respect to Mr. Hildebrand?

A. Yes.

Q. Is that correct?

A. Yes; that is correct.

Q. It was only in these states he was relieved of the responsibility as Regional Counsel?

A. That is correct.

Q. As President of the Brotherhood, did you make a point of inquiring into the activities of Regional Counsel, so far as the manner in which they obtained business was concerned?

A. Yes, I did.

Q. And in those situations—if any—where you found that Regional Counsel had overreached themselves by soliciting the business of injured members, did you take [fol. 833] steps to relieve them as Regional Counsel?

A. I either took steps to relieve them as Regional Counsel, or accepted consent decrees they could no longer continue in that capacity.

Q. During the period in which you have been President, have you had occasion to relieve any Regional Counsel, or Legal Counsel, by reason of the manner in which he obtained business of the members of the Brotherhood?

A. No. I can't say that I have relieved them. However, I have failed to appoint those whose records, I thought, wouldn't meet the requirements of the Brotherhood—who wanted to cooperate with the Illinois Supreme Court decision—since it was rendered in April of 1959.

Q. I believe, sir, the decree was rendered in March of 1958.

A. Yes. They gave us until a certain period of time, in 1959, to put our house in order. I agreed that we would do that—which we did.

Q. Now, you have indicated that you have refused to appoint as Regional or Legal Counsel certain persons, or certain attorneys, whom you had reason to believe [fol. 834] had not, or would not, comply with the provisions of the Illinois decree.

Do you recall any of the individuals that you refused to appoint, on that basis?

A. No. I can't recall, right now, any of them. But, I made up my mind that any attorney working for our Brotherhood must necessarily live up to all of the provisions of the decision—which was a unanimous decision—of the Illinois Supreme Court—or they couldn't continue in that capacity for the Brotherhood.

I have so informed them. As a matter of fact, I informed them, if I found any attorney violating those principles, I would be the first one to report them to the bar association.

[fol. 835] Q. Was this customarily done, with respect to all Legal Counsel? Are their pictures published in the Trainmen News, and an announcement of their designations made in this fashion?

A. It has been the customary practice since I have become President. I recall, when I appointed Mr. Zalenko, a former Congressman, as a Counsel in the New York area—and his partner, Mr. Elkin—I put their pictures and background in the Trainmen News for the benefit of our members in that particular territory.

Q. And have you undertaken to appoint Alex S. Dombey as Regional Counsel, or as Legal Counsel?

A. I have appointed him as counsel for Brotherhood problems in Columbus, Ohio. But, he has not been designated as having any territory.

[fol. 836] Mr. Biegenzahn: Q. Were you aware that Mr. Dombey had been suspended from practice in the State of Ohio for a period of one year, for solicitation activities?

The Witness: A. I was aware that there was some difficulty in the past years, as a result of some past actions on his part.

[fol. 837] Q. But, despite this knowledge, you felt that Mr. Dombey could be appointed for the purposes you have indicated—to act in behalf of the Brotherhood?

A. I felt that he had paid his debt to society, as a result of past difficulties with the Court; and that on the recommendation of a great many A.F.L. and C.I.O. labor organizations in Columbus, Ohio, I appointed him as the Counsel for the Brotherhood, at Columbus, Ohio.

[fol. 838] Q. All right, sir. Prior to the Illinois decision, you have indicated, when these matters came to your attention, you would inquire of Regional Counsel as to the merit of the proceeding, or the truth of the charges made?

A. Yes.

Q. Is that correct?

A. That is correct.

Q. In every case, I take it, that the explanation made by Regional Counsel was satisfactory, and was accepted by you?

A. Well, in my investigation, I determined that, if—in these various actions that had been taken against them—there was merit on both sides, it was sufficient for me to ask some competent and qualified court to give me a decision of guidance, so that I could decide—in the future—what should be done.

Q. But, in any event, you did not find it necessary, on any occasion, to relieve Regional Counsel?

A. Not before the Supreme Court decision. But, I would relieve them now, if they violate the provisions of the Supreme Court.

[fol. 839] Q. So, the local officer, whether he be the local President of the Grievance Committee, or the local Secretary-Treasurer, was under instructions to visit the injured members and advise them of the services available through the Legal Aid Department?

Is that correct?

A. Yes—

[fol. 840] Q. So that, really, the purpose of the reporting, from the local level, was to give your Regional Investigators and Regional Counsel an opportunity to contact that person, and obtain the information—the important facts—you have mentioned; that is, the circumstances of the accident?

A. I wouldn't say that that would be the essential reason. The essential reason is to protect the individual, himself, who is hurt or injured. That is the important thing.

[fol. 841] Q. To protect the individual, himself?

A. Yes.

Q. I see. So that, what you are really concerned about is the point that the Legal Aid Department have notice of the name of the injured party, the time of the injury, the place of the injury, and the address of the injured person so he could be contacted and advised that the Legal Aid Department is available—or that its services are available to him?

A. We wouldn't say it that way—that the Legal Aid Department would contact the individual—that their services were available. We would put it the other way.

We would say to this individual, that there was such a department in the Brotherhood as a Legal Aid Department, and he could contact the Legal Aid Department if he desires to have his case investigated and handled by competent, qualified attorneys.

[fol. 842] Q. So, it is only those claims which are reported by the local lodges, to the Brotherhood and its Legal Aid Department, wherein the injuries are what we might term serious, that report of such injury is given to Regional Counsel and Regional Investigators—is that right?

A. Then, we would tell the individual—we would write to [fol. 843] that individual when we get his report. We would tell him who our attorneys are. We would tell him, if he wants competent and qualified help, that the individual get in touch with the attorneys.

[fol. 844] Q. I take it, that is because of the Illinois Supreme Court decision.

In that connection, Mr. Kennedy, as part of your duties as President of the Brotherhood, you had control of at least supervised the conduct of the proceedings brought about in Virginia, in the Chancery Court of Richmond, Virginia—in a suit brought against the Brotherhood?

A. Yes.

Q. Is that correct?

A. Yes.

Q. I take it, you were consulted as those proceedings progressed?

A. Up to this time, I think they are still in progress. To some extent, I have been consulted—yes.

Q. And, in that connection, Mr. Kennedy, you did have [fol. 845] occasion to examine a document entitled, "More Particulars Furnished by Defendants," did you not?

A. Yes.

Q. And are the particulars there, furnished by the Brotherhood, through its Counsel, as set forth, to your knowledge?

A. Yes; they were furnished by Beecher Stallard, at that time.

[fol. 846] Q. And the matters therein stated are true, to the best of your knowledge?

The Witness: A. I wouldn't say they are true, or are not true. Mr. Stallard prepared this, from information that he received. There are, apparently, some facts in there that are correct.

[fol. 847] Q. First, Mr. Beecher Stallard was engaged as the attorney for the Brotherhood, in connection with this Virginia proceeding, was he not?

A. He was the attorney engaged to handle this proceeding.

Q. And he was authorized to speak for the Brotherhood in connection with that proceeding, isn't that correct?

A. That is correct.

A. I am satisfied that Mr. Stallard wouldn't have made the statements if they weren't correct. Although, I know nothing about the particular case.

[fol. 848] Q. On the question of Regional Counsel, Mr. Kennedy, these are all appointed by the President, are they not?

A. Yes, sir.

Q. And have been, since the establishment of the Legal [fol. 849] Department?

A. Yes, sir.

Q. Upon what basis are they selected?

A. They are selected on the basis that they are good, competent, and qualified attorneys, to represent the Brotherhood in all litigation that we may have presented to us in the state or the Federal courts.

Q. Is it also required that the persons who are to be appointed Regional Counsel be experienced and skilled in the handling of Federal Employees' Liability Act claims?

A. Not necessarily so. I would say that, if he is the type of attorney that we would want, it wouldn't take him long to catch up with Federal Employees' Liability Act cases.

But, that wouldn't be necessary for qualification purposes.

[fol. 850] Q. In response to certain of our interrogatories, you have indicated that, during the years from January, 1951, up to the date of your answers, that the Brotherhood received nothing in the way of money from Clifton Hildebrand.

That is, the Brotherhood received nothing by way of contribution; there was no contribution to the Legal Aid Department operating expenses—is that correct, sir?

[fol. 851] A. I think that is true. As I recall, over a period of years, and after certain action was taken in California, that thereafter we never received any money from Hildebrand.

I couldn't say as to the dates.

Q. But, it was true, during those years, other Regional Counsel—without naming them—did contribute?

A. Some did, and some did not.

[fol. 852] Mr. Biegenzahn: Q. Now, Mr. Kennedy, in your testimony, I understand that the President—Number One—appoints Regional Counsel—not Legal Counsel, is that correct?

The Witness: A. Yes, sir.

Q. And Regional Investigators, as well, is that not correct?

A. That is correct.

Q. And they serve at his pleasure, is that not correct?

A. That is correct.

Q. And the Legal Aid Department, up until April 1, of 1959, was under the direct control of the President?

A. That is correct.

Q. And the person who occupies that office supervised [fol. 853] the activities of that department, and of the Regional Counsel and Regional Investigators, is that not correct?

A. That is correct.

Q. When you accepted office, as President, Mr. Kennedy, you were not bound by any of the appointments made by Mr. Whitney, either as Regional Investigators or as Regional Counsel?

A. I was not necessarily bound by them. Unless there was some particular reason to the contrary, I would continue them.

Q. And, as a matter of fact, you did continue all who were in office—Regional Counsel and Regional Investigators?

A. That is true. I would do what the president of the railroad does, in substance. I would continue the entire personnel, unless there was some reason to do otherwise.

Q. But, your successor, as President of the Brotherhood, will have the same power—the same control?

A. That is correct.

Q. So that, so far as the policy of the Brotherhood, with respect to the operation of its Legal Aid Department, [fol. 854] or Department of Legal Counsel, is concerned, that is under the control of the man who is then President?

A. That is correct.

[fol. 855] Q. And Regional Investigators, as such, no longer exist—is that correct?

A. No; that is not correct. Do you mean, Regional Investigators?

Q. Yes, sir.

A. As far as Regional Investigators are concerned, we don't have any of the so-called Regional Investigators we had before, in the relationship of being paid.

Q. I see. In what way has it been changed?

A. We have our Secretaries of every lodge, who are investigators now.

Q. Who perform that function?

A. Yes.

Q. Without additional salary from the Grand Lodge?

A. Yes. There is no additional salary, as a result of that. Then, the group in the office conducts investigations whenever that is necessary, to help members in prosecuting their claims—whatever facts we can develop.

[fol. 856] The Brotherhood reports of the investigation is made available to the injured man, or his survivor—whatever they find is reported to the member, or his survivors.

The investigation is financed by the Grand Lodge of the Brotherhood of Railroad Trainmen. We make known to our injured members, and to their survivors, first, the advisability of obtaining legal advice, before making settlement.

Second, we submit the names of attorneys who have, in our opinion, the capacity to handle such claims successfully.

Q. Are these persons the people now designated as Legal Counsel?

A. Some of them are; some are not. We have told our members what they couldn't do, under this new law. They cannot carry contracts for the employment of any attorney.

They can't carry photostats, or settlements of any kind. That was very specific. There is to be no financial connection, of any kind, between the Brotherhood of Railroad Trainmen and any lawyer.

No lawyer can properly pay any amount whatsoever to [fol. 857] the Brotherhood, or any of its departments, officers or members, as compensation, reimbursement of expenses or gratuities in connection with the procurement of a case.

The Brotherhood of Railroad Trainmen will not fix the fees—and cannot fix the fees—for services to its members.

Basically, that was what the Illinois Supreme Court said. They said what we could do, and what we couldn't do, under the Illinois law.

[fol. 858] Q. In that regard, it is these Legal Counsel that the local officers have been instructed to recommend to injured members?

A. Yes. The Legal Counsel are the ones in the respective territory that we recommend the injured member go to. If they do go to them, they can get the information without any cost.

[fol. 859] A. To the members, upon their request.

Q. And an injured member, who employs one of the Brotherhood's Legal Counsel, will be supplied this information without cost?

A. That is right. If they ask for it, they can get the service without cost.

Q. And as to members who employ counsel other than Legal Counsel designated by the Brotherhood, some small charge will be made to them?

A. I don't know as to whether I would say that. It depends upon the circumstances. We may have a Legal Counsel that would have a territory that would be a thousand miles away.

For various reasons, somebody would want to retain a local counsel, for all intents and purposes, that had a good reputation.

[fol. 859a] We would furnish that information to them free, without asking them to pay for that service. Why? Because it would be a convenience to the individual member.

Q. For instance, if the member resided, and his accident occurred in the city in which Legal Counsel retained his office.

If he retained a lawyer, other than Legal Counsel, in that circumstance, some small charge would be made?

A. I don't know that it would. If he was an attorney in good standing with labor, he could have that information.

If he was some bird antagonistic to labor, the price would be very high. I will say that.

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[fol. 860]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA
PLAINTIFF'S EXHIBIT 3 TO DEPOSITION

SUPERIOR COURT

STATE OF WASHINGTON
COUNTY OF SPOKANE

No. 146745

HENRY OPENDACK, for himself as an ACTIVE MEMBER OF THE
WASHINGTON STATE BAR ASSOCIATION, and as REPRESENT-
ATIVE OF A CLASS WITH LIKE INTEREST,

Plaintiff,

-VS-

TOM DAVIS, EUGENE A. RERAT, CARL L. YEAGER, PHILIP B.
LUSH, CLARENCE B. MCGLINEY, DON CHAPMAN, OWEN A.
JOHNSON, H. W. DONAHUE, WILLIAM J. DIEHM, BROTHER-
HOOD OF RAILROAD TRAINMEN'S UNION LOCAL 307, BROTHER-
HOOD OF RAILROAD TRAINMEN, an international railroad
union, JAMES A. PATTERSON, individually and as Secre-
tary of Local and Agent of International, SWITCHMEN'S
UNION OF NORTH AMERICA LOCAL No. 137, SWITCHMEN'S
UNION OF NORTH AMERICA, an international railroad
union, and EDWIN O. LUNDBERG, individually and as Sec-
retary of the Local and Agent of the international,
Defendants.

FILED

May 21, 1957

Geo. E. Fallquist, Clerk
SPOKANE COUNTY

ANSWERS OF THE BROTHERHOOD OF RAILROAD
TRAINMEN TO PLAINTIFF'S INTERROGATORIES

1. Does the union have a legal aid department?
Yes, the union has a legal aid department, the nature of
which is described below.
2. Tell us the physical makeup of the legal aid depart-
ment.

Respondent believes that the word "*physical*" in the above interrogatory is a mistyping of the word "*fiscal*" and answers that interrogatory accordingly since respondent does not understand what is meant by "*physical*" makeup of the legal aid department but does understand and is able to describe the "*fiscal* makeup" thereof.

[fol. 861] The legal aid department has headquarters at 1370 West Ontario, Standard Building, Cleveland, Ohio. The headquarters are staffed by clerical personnel whose chief function is to coordinate and keep records. No law business of any kind is transacted in the headquarters. Fifteen regional counsel, appointed by W. P. Kennedy, President of the Brotherhood, are available to serve the Brotherhood as an entity and its members or their survivors in claims arising out of railroad employment, including claims arising out of personal injuries to or the deaths of such members when such injuries occur in or such deaths result as a consequence of railroad employment. Chairmen of local lodges are required to, and regularly do call upon injured members or the survivors of members killed in railroad accidents, inform such injured members or such survivors that they may without cost or expense consult regional counsel, urge such members, or such survivors of members to employ regional counsel to initiate litigation or negotiate for settlement, either arrange to have representatives of regional counsel call upon such injured members or survivors of deceased members, bring such members or survivors of deceased members to the office of regional counsel and assure such injured members or survivors of deceased members that regional counsel will not charge more than twenty-five per cent of the avails of recovery for fees and expenses of litigation, no charge being made if there is no recovery. In appropriate cases, such chairmen or other representatives state that regional counsel will or may make monetary advances for hospital and living expenses. Such chairmen are compensated by regional counsel for their time and efforts expended in the manner above described. [fol. 862] The legal aid department also hires full-time investigators, whose duty it is to investigate accidents in which members have been injured or killed.

The several regional counsel contribute ratably to the expenses of the legal aid department, that is, to the expenses of maintenance of the above-mentioned office in Cleveland

and to the expenses of the discussion of legal aid matters at conventions of the Brotherhood. The expenses of the discussions of legal aid matters at such conventions are computed by taking the total cost of the convention and allocating against such costs the ratio of the number of minutes spent at the convention in discussing legal aid matters as against the total number of minutes spent in convention.

[fol. 863] 7. Under the Brotherhood's constitution, by-laws, etc., when a union member is injured or killed in railroad operations, is it not only the right and privilege, but the duty and obligation of member representatives of the Brotherhood, usually the chairman of the Grievance Committee, in the locale of the accident to call upon the injured member or his bereaved family, and not only explain to them that they can, but recommend and urge that they do consult with the regional counsel?

Yes.

8. Is it not a fact that the representatives not only urge members or survivors of the deceased members, not only to consult, but to retain, regional counsel?

Yes.

9. Is it not a fact that members are told that regional counsel are not permitted to, and will not, charge, in the excess of 25%, of the amount of any recovery, and that this percentage will include expenses incidental to the investigation, and any litigation of the claim?

This is the rule. However, I am not in a position to state what has been told in every instance.

10. Is it not a fact that the local chairman or other member representatives of the union are reimbursed for their time in bringing injured members, or the survivors of deceased members to the offices of regional counsel?

Yes.

[fol. 864] 15. Is it the duty of the local chairman of any lodge of the Brotherhood to call immediately upon any member of the lodge who has been disabled by illness or injury, sustained in the course of his employment by a railroad?

Yes.

16. Are the Regional Counsel, as part of the Legal Aid Department, permitted to make cash advances to injured members, pending litigation?

Yes, but not required to.

17. Are such cash advances actually made?

Yes, in some instances.

[fol. 865]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 78

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.:

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES

No. 727 273

SOUTHERN PACIFIC COMPANY, a corporation,
Plaintiff;

vs.

CLIFTON HILDEBRAND, et al.,
Defendants.

W. P. KENNEDY, Individually, and in a representative capacity for and on behalf of the BROTHERHOOD OF RAILROAD TRAINMEN, an international labor organization, its officers and members,

Cross-Complainant,

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, a corporation; SOUTHERN PACIFIC COMPANY, a corporation; ASSOCIATION OF AMERICAN RAILROADS, an Illinois Corporation; and DOES 1 to 400, inclusive,

Cross-Defendants.

Deposition of C. R. Maher, a witness herein, taken on behalf of the Plaintiffs, at 7:00 o'clock, P. M., Wednesday, October 5, 1960, at Suite 810, 139 North Clark Street, Chicago, Illinois, before Martin E. Woolsey, a notary public in and for the County of Cook, State of Illinois, pursuant to stipulation.

[fol. 866] Direct examination.

By Mr. Biegenzahn:

Q. Now, will you state your full name, sir?

A. C. R. Maher, M-a-h-e-r.

[fol. 867] Q. What is your present employment, Mr. Maher?

A. I am chief clerk to President Kennedy, President of the Brotherhood of Railroad Trainmen.

Q. And in what department of the Brotherhood are you employed?

A. I am assigned by President Kennedy to supervise the operation of the Department of Legal Counsel.

Q. And when was that appointment made, sir?

A. I was appointed on March 22, 1954.

[fol. 868] Q. Will you indicate to us what offices or positions you have held with the Brotherhood either at the local level or at the Grand Lodge level during the course of your employment?

A. Well, I have held every elective office in the Subordinate Lodge to which I belonged, that is 583 in Danville, Illinois, with the exception of delegate to the International Convention.

[fol. 869] Q. When did you first go to Cleveland, Ohio, on a permanent basis in connection with your work with the Grand Lodge?

A. Well, I have served two hitches in the Grand Lodge of the Brotherhood. I first went to Cleveland on June 1st, 1947.

Q. And in what capacity did you serve at that time?

A. As manager of the then known Legal Aid Department.

[fol. 870] Q. All right.

And for how long did you serve in that capacity?

A. I served until February 1st, 1948.

Q. And you were then succeeded by whom?

A. By Steve Lush.

Q. And when was Mr. Lush replaced by Mr. Lee?

A. Mr. Lush retired, I don't know the exact date, but I believe it was July 1st, 1950. I might be a year off on that. It was either 1950 or 1951.

Q. And Mr. Lush, or rather Mr. Lee, succeeded Mr. Lush, is that right?

A. Yes, M. M. Lee, commonly known as Pinky, was appointed by the then President Whitney to—no, wait a minute—yes—no, wait a minute. Whitney died in 1949. By Kennedy to succeed Steve Lush.

Q. All right.

And Mr. Lee served then as manager of the Legal Aid Department until—

A. Until his death March 16, 1954.

Q. And it was at that time that you were appointed again to succeed Mr. Lee in that position?

A. Yes, and went into the job on March 22nd, 1954.

Q. All right. During the period 1948 when you were [fol. 871] relieved as manager of the Legal Aid Department until you again assumed the duties of that office in 1954, what was your employment?

A. I was an investigator for the Brotherhood of Railroad Trainmen.

Q. That is a regional investigator?

A. Yes.

Q. And to which regional counsel were you assigned?

A. To then Edward B. Henslee, Sr.

Q. In Chicago here?

A. Yes.

Q. And you worked—

A. That is, I was assigned to operate in Edward B. Henslee's territory.

[fol. 872] Q. Now, from the time that you first were appointed manager of the Legal Aid Department in 1947, until you again assumed those duties in 1954, had there been any

changes in the organization or the operation of the Legal Aid Department?

A. Well, not to my knowledge, between those dates.

Q. And from 1954 until the present time, had there been any substantial changes in the organization or operation of the Legal Aid Department?

A. Yes, there had.

Q. When did these changes occur?

A. The changes occurred on April 1st, 1959.

Q. I see.

So until that date, that is April 1, 1959, the operation and organization of the Legal Aid Department had been the same from the time that you were first appointed as manager in 1947?

A. Well, substantially the same, yes, until the change on April 1st, 1959.

Q. And prior to 1947, when you were appointed manager of the Legal Aid Department, I assume that in so far as you were aware, the organization, the operation of the Legal Aid Department, had been the same from its organization [fol. 873] in 1930 until 1947?

A. As far as I knew, yes.

Q. All right.

Will you describe for us, Mr. Maher, the organization of the Legal Aid Department as you found it when you assumed the office of manager in 1947?

A. Well, I found that there was an office established in the Grand Lodge headquarters.

Q. That is in the Standard Building?

A. In the Standard Building in Cleveland, Ohio, a suite of offices, rather, I should say. Up until my appointment to succeed M. M. Lee, the title of the supervisor of the department had been manager of the department.

The staff varied at times. When I came into the office in 1947, there was a staff of four stenographers and one file clerk. The number on the staff is varied from time to time. There were occasions when correspondence was so heavy [fol. 874] that an additional stenographer might have to be borrowed, or was borrowed. There were times when the correspondence fell off when the staff could be cut and was

cut, and a stenographer transferred to another department.

Q. You have indicated that that was the situation until 1954 when you were again appointed to the Legal Aid Department?

A. The office was in the same location in the headquarters of the Brotherhood when I came in there in 1954, as it was when I went in there in 1947.

Q. But your title then became chief clerk rather than manager of the Legal Aid Department?

A. That is right.

Q. And you continued with the same duties at least until April 1st of 1959?

A. That is right.

Q. And during that period from 1954 to 1959 your official designation was that of chief clerk of the Legal Aid Department?

A. Yes, that is right.

Q. And during the period 1954 to April 1st, 1959, the staff in the Legal Aid Department remained the same?

[fol. 875] A. That is right.

[fol. 876] Q. Now, will you describe generally the nature of the records kept by the Legal Aid Department?

A. Well, yes; they are records starting from the LA-1 report which is sent into the Grand Lodge and wind up in my department by the secretaries of the various subordinate lodges in the United States.

Q. Will you indicate generally of what that form consists?

A. Well, it is a printed form or blank, up in the upper left-hand corner it is designated by the initials capital L, capital A dash one, the date of the printing of the form is included in that upper left-hand corner, and it is the form which is sent out by the Grand Lodge principally my department to the secretaries of the various subordinate lodges in the United States.

Q. And the secretaries are instructed to complete this form whenever a member is injured or killed, is that correct?

A. That is right. That is designated as part of the secretary's duties by the Brotherhood Constitution.

Q. And what information usually does the LA-1 report contain?

A. Well, first of all it contains the member's name, his [fol. 877] age, his address, his home address, the city where he resides; there is a space for his Social Security number; there is a space for his telephone number. I don't recall the exact wording of the phrases on each question, you might say on the blank, but there is a space, where the accident occurred. There is a space, what occurred. There is a space, nature and extent of injuries. There is a space, married. There is a space, wife's name. There is a space, dependents. There is a space for the signature of the secretary or the member or the representative whoever might send in the LA-1 report. There is occasions when the secretary might be sick or for some other reason may designate the duty of sending in the report to some other subordinate lodge officer or member.

Q. But the sole function of the LA-1 report is to advise the Legal Aid Department that an injury or death has occurred to a member while in service?

A. That a member has been injured or killed; yes, sir.

Q. Is the LA-1 report form still in use?

A. Yes.

[fol. 878] **Q.** Now, when you receive an LA-1 report, do you in the Legal Aid Department, then prepare a separate [fol. 879] file for the member injured?

A. Yes.

Q. And all correspondence and other writings relating to his case are kept in that special file?

A. Kept in that special file; yes, sir.

Q. And these files, I take it, are considered as one of your permanent records?

A. Yes.

Q. Now, what records other than these four forms that you have just described to me, do you keep in the Legal Aid Department?

A. Any correspondence that we might receive in connection with this particular accident or the injuries to this member.

Q. I see. Now, Mr. Maher, as I understand it, certain regional investigators, at least up until April 1st of 1959, were paid salaries by the Brotherhood, is that not correct?

A. Yes.

Q. And were the records covering payments of salaries to these regional investigators kept in the Legal Aid Department?

A. Yes.

[fol. 880] Q. You have indicated that financial records of the transactions with which the Legal Aid Department was concerned were kept by the Legal Aid Department?

A. Yes.

Q. And what, generally, did these financial transactions consist of?

A. Well, now, what period are you referring to?

[fol. 881] Q. Well, during the period when you first became connected with the Legal Aid Department in a supervisory capacity in 1947 until April 1st, 1959, when the set up was changed to some extent.

The Witness: A. Well, during my first period of service in the department, whatever financial connections there were between the attorneys and the Brotherhood were the submission of the various Brotherhood, then known as regional counsel, to the Brotherhood of Railroad Trainmen, paying their proportionate share of the cost of the operation of the department.

Q. And this practice then of keeping records of submissions, as you call them, continued right up until April 1st of 1959, is that not correct?

A. During my regime in the office, yes, sir.

Q. And during the period while you were not manager or chief clerk, this practice continued?

A. Well, I don't know. That I can't say.

Q. You have seen the records?

A. I presume that they did continue to operate that way, yes.

Q. All right. During the period when you were in office as a manager or as chief clerk, in what book or books was

the records of payments by the various regional counsel kept?

A. They were kept in our own books, in our own records and supposedly kept under lock and key.

Q. All right. What form did these records take? Were they in a bound book?

A. They eventually wound up in a bound book, yes, sir.

Q. And what period of years is covered by the bound book to which you refer?

A. Well, I can only answer for the time that I have been in the office.

Q. Yes, that is from 1947 to—

[fol. 883] A. No, I would say from 1954 until the present time.

Q. At least during the period of 1954 to the present time they are collected in one book, the records reflecting financial contributions made by the regional counsel to the Legal Aid Department, is that not correct?

A. That is correct.

[fol. 884] Q. All right. Now, in the records which you keep of financial transactions between the Brotherhood and its regional counsel, is there more than one book?

A. Well, now, there may be more than one book. One book might possibly have been used up and another book followed up to keep the records up to date.

[fol. 885] Q. Who in your office makes entries in these books relating to the finances as between the Legal Aid Department and the regional counsel?

A. Well, usually I use one of the staff who is usually the senior girl in the office to keep those records.

Q. Who is presently the senior girl?

A. Her name is Virginia Brazeal Clark.

[fol. 886] Q. Now, during the periods when you have been either manager or chief clerk of the Legal Aid Department, it was you, I take it, who determined the pro rata [fol. 887] share of the expenses of operating the Legal Aid

Department which was to be paid by each of the various regional counsel, was it not?

A. It was through my supervision, yes.

Q. And how was this computation made; what was the basis for it?

A. The basis was computing the total settlements made [fol. 888] by all of the regional or legal counsel, all of the regional counsel, the grand total of all of the settlements made were based as one hundred per cent. Then—I am not a bookkeeper, I am not an accountant; to my knowledge, the girl who has been keeping the records is not an accountant, so I took these figures to the comptroller—not the comptroller, but the chief accountant in the Grand Lodge, and asked him to figure out the percentage of the total one hundred per cent settlements. This one hundred per cent was broken down into the amounts of settlements made by each individual or firm of legal counsel, and I asked this chief accountant to break that down into the percentage of the one hundred per cent, which each firm or counsel furnished us for the year.

Q. In other words, if it were determined that the total dollars, amount of dollar settlements made by all regional counsel in one year were ten million dollars, for instance, and one of the regional counsel had recovered settlements in the amount of one million dollars, he would pay them ten per cent of the total cost of operating the Legal Department, is that correct?

A. Well, I don't know that it would break down to an [fol. 889] actual ten per cent. The counsel who did the most business during the year, or maybe most settlements, received the largest amount of settlements, naturally was at the top of the list.

Q. Yes. In other words, to put it in general terms, each regional counsel would contribute a pro rata share in proportion to the amount of recoveries obtained by him bore to the total amount of recoveries obtained by all regional counsel?

A. Yes.

Q. In discussing this you have used the word "settlement," but I assume by that you mean the dollar amount recovered, whether by settlement or by suit?

A. Well, we didn't differentiate between settlements or suits. It was just the recovery of an amount.

Q. Yes. But I take it that it was the amount recovered by regional counsel either by a settlement or suit in behalf of members of the Brotherhood only?

A. That is right.

Q. That was taken into account?

A. That is right. We keep no records of the non members of the Brotherhood.

Q. And how were the total recoveries made by each [fol. 890] of the various Brotherhood counsel on behalf of the Brotherhood members obtained by the Legal Department?

A. Well, there were only two ways, either by negotiation or by jury verdict.

Q. No, I meant how did the Brotherhood determine how much any particular regional counsel had obtained for members by way of settlement or suit during any particular year?

A. Because that is one of the requirements of the Brotherhood, that the counsel furnish to the Grand Lodge of the Brotherhood the number of settlements he has made and the amounts recovered in each individual case.

Q. In other words, the Brotherhood required that as regional counsel concluded each case for any member of the Brotherhood, he would report to the Legal Aid Department the amount of the recovery obtained on behalf of that member?

A. Yes, sir.

Q. All right. And during this period, that is, while you were either manager or chief clerk of the Legal Aid Department, Mr. Hildebrand and his firm contributed their pro rata share?

A. Mr. Hildebrand didn't contribute. Mr. Hildebrand [fol. 891] individually didn't, nor his firm didn't contribute.

Q. All right.

Did the regional investigators associated with his office contribute?

A. As far as I know they did.

Q. They did contribute?

A. Yes.

[fol. 892] A. The notice of the assessment allocated to each counsel was sent to the counsel. Cliff Hildebrand, ever since I have been on the job, was sent notice that his proportionate share for the operation of the department would be so many dollars.

Q. I see.

A. I never received a check for any amount from Cliff [fol. 893] Hildebrand.

Q. But in each year in which you sent Mr. Hildebrand a statement indicating the amount or his pro rata share, this amount was ultimately paid by someone to the Legal Aid Department?

A. There was a cashier's check came in, yes, made out to the Brotherhood of Railroad Trainmen.

Q. And the amount received by way of check or cash in this fashion was credited to Mr. Hildebrand's account?

A. To that region. I don't give a damn where the money came from as long as it came in.

Q. Sure. But as to the rest of the regional counsel, when they were assessed for their share of the operating expenses, they would properly remit their checks in the amount of the assessment, didn't they?

A. Some of them did and some of them didn't.

Q. Well, as to those that didn't, was it a case of never paying or that it came through from some other source?

A. No, it never came through some other source. I don't know what the occasion was unless it was to comply with certain State regulations.

[fol. 894] Q. I see. But is it fair to state that the majority of the regional counsel paid the assessment made?

A. Yes, that is a fair statement.

Q. All right.

Now, assuming that these seven pages contained in Plaintiff's Exhibit 9 (Nelson's Exhibit A) are copies of the records of the Brotherhood, I note that during the year 1957 the Henslee firm did not pay anything on their account. Do you recall that?

A. Yes, I seem to recall that.

Q. And that was pursuant to directions of W. P. Kennedy that this firm should not be assessed for the years 1955, 1956 or 1957, is that not correct?

A. Yes.

Q. And what was the reason for that firm not being assessed for a portion of the operating costs during those years?

A. At that time, during those years there was no firm in so far as the Brotherhood was concerned; it was Edward B. Henslee, Counsel of the Brotherhood of Railroad Trainmen. Edward B. Henslee was also, in addition to being legal counsel, had been appointed General Counsel for the Brotherhood of Railroad Trainmen by President Kennedy. [fol. 895] Q. So that so far as Mr. Henslee, that is Edward B. Henslee, Sr.?

A. Edward B. Henslee, Sr.

Q. So far as he was concerned, he was not called upon to contribute because he had rendered services as legal counsel?

A. He had rendered services to the Brotherhood as General Counsel and legal counsel, which would, I would say, much more than consume what he would owe the Brotherhood.

Q. I see. And during that same year, 1957, it is indicated that Davis, Rerat, Yaeger & Lush made no contributions, but I see that Rerat, individually, Yaeger, individually, and Lush and Davis made individual contributions. I take it from that that the reason that the firm made no contribution is because the individual members made their own pro rata contribution?

A. That is the way I take it, yes, as members of the firm.

Q. All right.

Now, during the period when you have been either manager or chief clerk of the Legal Aid Department, Mr. [fol. 896] Maher, whenever you had problems or any questions that you did not think you could or should dispose of yourself, you consulted with Mr. Kennedy, did you not?

A. Yes, sir.

Q. And he was the only person within the organization with whom you consulted concerning these matters?

A. No, I won't say he is the only person I consulted. He is the only person I consulted who could give me authority to do something about which I might have been puzzled.

Q. I see.

In other words, beyond the limits of your own authority, you had to look to Mr. Kennedy and to Mr. Kennedy alone for such additional authority as you might need?

A. Yes, sir.

Q. Now, during the years 1954 up to April 1st of 1959, Mr. Maher, what were the average annual operating expenses of the Legal Aid Department?

A. Oh, it varied. I would say that it would vary between the amounts of \$75,000.00 and \$100,000.00.

[fol. 897] Q. And this did not, I take it, include salaries, your salary or salaries of the permanent personnel within the department?

A. Yes, that did include them.

Q. It did include these salaries?

A. Yes.

Q. Now, those regional investigators, Mr. Maher, that were paid by the Brotherhood, I take it, were paid through the Legal Aid Department?

A. No, they were paid through the Brotherhood of Railroad Trainmen. They got the same kind of checks that any employee of the Brotherhood of Railroad Trainmen gets.

Q. I see. Were you advised that payments were made by the Brotherhood to these individuals?

A. You mean every check that went out?

Q. Yes, sir.

A. No, I knew that they were on the Brotherhood payroll at so much per month.

Q. Were you provided with, in substance, recapitulations of payments made by the Brotherhood to these regional investigators at other periods?

A. Well, I had a record of how many Brotherhood Investigators were on Brotherhood salary. I knew how much [fol. 898] salary they received from the Brotherhood, so the salary checks went out twice a month from the Grand Lodge of the Brotherhood, checks signed by the president and the general secretary and treasurer.

Q. During the years 1954 to April 1st, 1959, isn't it true that all of the regional investigators appointed by the

Brotherhood, by Mr. Kennedy, were assigned to specific territories?

A. Yea.

Q. And each of them worked in conjunction with a regional counsel?

A. They worked in harmony and conjunction with regional counsel, yes.

Q. In substance, pursuant to instruction of regional counsel?

A. Well, if it pertained to anything in connection with what the legal or the regional counsel or legal counsel wanted investigated, anything pertaining to a particular case, they were under the counsel's direction.

[fol. 899] Q. And isn't it true that a regional investigator would be put on salary by the Brotherhood only at the specific request of a particular regional counsel?

A. Well, that is true in some instances; in all instances it wasn't.

[fol. 900] Q. Now, as to those regional investigators, who were placed on salary at the request of regional counsel, were their salaries charged against the operating expenses of the Legal Aid Department?

A. Yea.

Q. But as to those regional investigators who were placed on salary without the request of regional counsel, were their salaries charged against the operating expense of the Legal Aid Department?

A. No.

Q. And as to those regional investigators whose salaries were charged against the operating expenses of the Legal Aid Department, the Legal Aid Department was reimbursed by the regional counsel who the particular investigator served?

A. That is right.

[fol. 901] Q. I see, sir.

In other words, from the Legal Aid Department stand-

point, this was merely a bookkeeping matter, that is the salaries paid to Bockhold and to Dragmire?

A. Well, yes, exactly.

Q. And no money was actually paid out by the Brotherhood that was not promptly returned?

A. Well, in the matter of salaries, yes.

[fol. 902] Q. Now, with respect to the operations of the Legal Aid Department during those periods when you acted as manager or chief clerk, will you describe generally how the machinery of the Legal Aid Department was set in motion by injury to a member? You understand that question?

A. Yes. The machinery was set in motion when my department received the LA-1 report of the accident.

Q. All right. And upon receipt of the LA-1 report, what steps were taken by the Legal Aid Department?

A. Up until April 1st, 1959, copies of the LA-1 reports were sent to the counsel in the area to which the subordinate lodge was allocated, and to the Brotherhood investigator who was assigned in that area.

Q. All right. The first step then upon your receiving a [fol. 903] LA-1 report, you would prepare a copy of it and forward, prepare copies of it, forward one to regional counsel in that area, and one to regional investigator in that area?

A. That is right.

Q. Then what was the next step that you took?

A. Well, there might have been various steps that I might take.

The first step would be if I didn't get a report from the investigator, especially within what I considered a reasonable time, my first step would be to follow up and find out why he hadn't sent that report in.

[fol. 904] Q. During this period, each of the regional investigators was responsible to a particular regional counsel, wasn't it?

A. Yes.

Q. Now, at about the time that you received the LA-1 report, wasn't it your practice at least in those cases where the injury appeared serious, to write a letter to the injured member advising him of the availability of the services of the Legal Aid Department and indicating the name and address of the regional counsel for his area?

A. There were occasions we did that.

Q. And wasn't that your practice with respect to those cases where the injury appeared serious?

A. Well, yes, the majority of the time that was my practice.

[fol. 905] Q. And didn't you routinely send a copy of that letter to the regional counsel who was mentioned in the letter?

A. There were times when I did, yes.

Q. And what was your purpose in doing that, Mr. Maher, sending a copy to the regional counsel?

A. My purpose was to try to see that the injured member received the service, or was advised of the protection which was available to him.

Q. And you sent a copy of the letter to the regional counsel so he would know the man had been injured, know where he could be found and could contact him and advise him concerning his rights, that he was available to serve him; isn't that correct?

A. I let the counsel know where the man was, yes.

Q. And for that purpose, so that he could contact him and advise him of his rights and make known he was available and could serve him?

A. Well, if I sent him the address of the man, certainly he could contact him.

[fol. 906] Q. Now, Mr. Maher, isn't it true that in your contacts with regional investigators you have routinely instructed them that they should advise and inform injured members that the services of the Legal Aid Department are available?

A. Yes.

Q. And that they may consult with regional counsel for

advice concerning the handling of their claim and this without charge?

A. If they so desire.

Q. Yes. And you have also routinely instructed regional [fol. 907] investigators and local officers, where the occasion arose, that they should advise injured members that they should be careful of claim agents and should not give them statements?

A. Yes, sir.

[fol. 908] Q. Now, Mr. Maher, you have indicated that on April 1st, 1959, pursuant to direction of Mr. Kennedy, certain changes were made in the Legal Aid Department. Will you describe these changes?

[fol. 909] A. Well, the one change that was made was the change in the title of the departments abolishing the title of Legal Aid Department and establishing the title of Department of Legal Counsel with the additional title of Department of Research and Investigation.

Q. Well, the Department of Legal Counsel then and the Department of Research and Investigation, I take it, are still one and the same?

A. Well, the duties in connection with either or both departments are co-related.

Q. I see. And you still remain as the head of these departments?

A. Yes. I might add to that, under the direct supervision of President Kennedy.

Q. Yes. All right.

Now, what functions are performed by the Department of Legal Counsel as opposed to the Department of Research and Investigation?

A. To represent the Brotherhood in any legal matter which would pertain to the welfare of the Brotherhood in general, or any department thereof, and when employed by an individual member of the Brotherhood of Railroad Trainmen to handle the individual case under the provisions of the Federal Employers Liability Act.

Q. Now, as to those cases which are handled by legal

counsel as the regional counsel are now designated for an injured member, I take it that their fee is not paid by the Brotherhood?

A. No, their fee is not.

Q. That is a matter strictly between the injured member and the regional counsel?

A. Yes, sir.

Q. But as to those matters which legal counsel handle in behalf of the Brotherhood, I take it that they are paid a fee by the Brotherhood?

A. Yes, they are.

Q. And is this fee paid through the Department of Legal Counsel?

A. No, it is paid directly out of the general fund of the Brotherhood of Railroad Trainmen.

Q. All right. And the bill of the legal counsel for this sort of service is submitted then directly to the Brotherhood or is it submitted to the Department of Legal Counsel?

A. It is usually, the majority of times, addressed directly to President Kennedy.

[fol. 911] Q. Do you have any records in the Department of Legal Counsel of fees paid by the Brotherhood to legal counsel since April 1st of 1959?

A. I have some records, yes. I don't know whether I have all of them or not, but that is of all of the fees that have been paid to all of the counsel.

Q. And how are the records that you have kept, are they in bound ledger books?

A. Eventually they are entered into our ledger books only if service which the counsel performs for the Brotherhood has any bearing upon the Department of Legal Counsel.

[fol. 912] Q. Yes. Now, I take it that under the new set up you still retain and use the LA-1 report?

A. Yes.

Q. And it is used in the same fashion?

A. The same as it has always been used in.

Q. And the FLA-2 report is likewise retained and used in the same fashion?

A. That is right.

Q. This is also true of the FLA-2D report?

A. That is right.

Q. And the same is true of the special accident form, [fol. 913] is it not?

A. That is right.

Q. Now, as I understand it there has been some change in the situation of regional investigators; will you describe what changes were wrought on April 1st of 1959 in this regard?

A. Well, the major change that has been made is that there are no investigators now on the Brotherhood salary.

Q. Are there any longer any regional investigators?

A. You mean investigators as such?

Q. Yes.

A. Yes, there are many members who are still designated as investigators and carry the cards that were issued to them by President Kennedy.

Q. I see. But these men are not on salary from the Brotherhood any more?

A. No, they are not.

Q. And I take it they are compensated by legal counsel in the various areas in which they operate?

A. There are many of them who have never been compensated by anyone.

Q. But those who are compensated, they are now compensated by legal counsel?

[fol. 914] A. I don't know how they are being compensated; they are not being compensated by the Brotherhood.

Q. But substantially all of those people who were designated as regional investigators prior, immediately prior to April 1st, 1959, they are still designated as regional investigators?

A. There are some who are still designated as regional investigators, yes.

Q. All right.

You indicated earlier that there were during the period 1954 to 1959, approximately fifty regional investigators. How many now are still designated as regional investigators?

A. Oh, I would say possibly half that number.

Q. Twenty-five?

A. About twenty-five, yes.

Q. And none of these people are paid by the Brotherhood?

A. None of them; that is right.

Q. And as to these twenty-five, I take it that they devote [fol. 915] their full time to investigative work, don't they?

A. No, I wouldn't say they devote full time.

Q. Well, substantially full time then?

A. No. My answer to that is that there are some members of the Brotherhood carrying investigator cards and designated as Brotherhood investigators who have been issued that card because they consider it an honor to carry that card, and they don't expect any compensation for anything they might do for the Brotherhood.

Q. I see. But these men are instructed by you or by Mr. Kennedy to perform investigative work, is that correct?

A. Those investigators who I just mentioned, if they get any instructions from President Kennedy, I am never notified of that fact.

Q. And you don't give them any yourself?

A. No.

Q. Now, I understand from Mr. Kennedy's testimony that under the old set up the copies of the LA-1 report were routinely sent to regional counsel, that is correct, isn't it?

A. Yes.

[fol. 916] Q. Under the new set up though I understand copies of this report are not sent to regional counsel?

A. They are not.

Q. Are regional counsel or legal counsel under the new set up advised of the occurrence of accidents and the names and addresses of the injured persons through any other means other than the copy of the LA-1 report?

A. That I can't answer; I don't know.

Q. Well, have you advised legal counsel under the new set up at any time of the occurrence of an accident and the name and address of the injured member?

A. I have not.

Q. Is this a function that is now performed by the local lodge officers; that is the secretary or other personnel?

A. Well, if it is performed that would be the only manner in which I could figure out that legal counsel would get that information. I don't know. I am not furnished copies of this report.

[fol. 917] A. There are no copies; since July 1st, there are no copies of any reports go to any investigators or any counsel.

Q. Is that July 1st of this year?

A. Last year. That was the absolute deadline which was established by the Supreme Court of Illinois in which the Brotherhood was required to get their house in order.

Q. To pin it down very carefully, Mr. Maher, am I correct in my understanding that you have not, yourself, either by letter, phone call or otherwise advised legal counsel of the occurrence of an accident or the name and address of the injured member?

A. That is correct.

Q. At any time since April 1st of 1959?

A. No, I won't say from April 1st; I say from July 1st. Now, there may have been inadvertently between April 1st and July 1st, because of the fact that someone on my staff hadn't got established to the new method of operation, that there might have been accidentally a copy of a report sent out to a counsel.

[fol. 918] Q. I see. But this would be pursuant to action, independent action, taken by one of the persons working under you and without your knowledge?

A. That would be it, yes.

Q. Since April 1st of 1959 have any of the legal counsel made any payment or contribution to the Department of Legal Counsel or to the Department of Research and Investigation?

A. No, they have not.

Q. Have any payments been received by the Brotherhood and credited to the account of these legal counsel since April 1st of 1959?

A. No, there has not.

Q. Have any of these legal counsel who have performed services for the Brotherhood since April 1st of 1959, and

who have submitted bills to Mr. Kennedy, not received payments?

A. Not to my knowledge. The Brotherhood is always pretty prompt in paying its bills.

Q. All right. Since April 1st of 1959, have any persons designated as regional investigators paid any money to the Brotherhood other than as dues, as membership dues? [fol. 919] A. No.

Q. Have such persons as regional investigators since April 1st, 1959, been credited for amounts received by the Brotherhood from any source?

A. May I have that question again? Any of these persons you mean?

Q. The regional investigators.

A. Would you read that question?

(Question read.)

The Witness: A. No, they have not.

Mr. Biegenzahn: Q. Now, Mr. Maher, aside from the changes that we have already covered, have there been any other changes in the Legal Aid Department since April 1st of 1959?

A. No, there have not.

Q. In all other respects its operation and organization continue the same?

A. Yes, sir.

[fol. 920]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT PX12

(Letterhead of Brotherhood of Railroad Trainmen,
Cleveland 13, Ohio)

[Emblem]

Air Mail

Re: Edward T. Hays—Lodge 864

January 24, 1956

Mr. Edward T. Hays
1006 South Yakima Street
Tacoma, Washington

Dear Brother Hays:

May I have your attention and that of your wife for a few moments. It may save both of you much inconvenience and misery later on.

Perhaps you have never met me or have never heard of me—but that is immaterial. I am an "old rail" who started working around box cars, just like you, in 1913. Since then I have seen many serious accidents, some of them fatal, and I know from close personal relationships the sorrow, insecurity, and sometimes tragedy which follows in the wake of all serious accidents.

I do not believe in writing "tear jerker" letters. I do believe, however, in telling any or all of our members and their dependents a few things about the reality of the problems which face them in the time of misfortune, with the hope that whatever I say will help them solve those problems, so that they will not be cast aside upon the refuse pile of industrial progress.

A few days after you were so unfortunately and unnecessarily injured I was notified, as required by our Brother

hood Constitution, by Brother W. H. Shonka, the secretary and treasurer of your lodge. This is his duty and is a requirement of the Brotherhood, so that whatever steps necessary can be taken either through legislation or otherwise to protect our members not only against the many hazards of their occupation, but also against many of the tragic consequences which all too often follow in the wake of serious injuries or death to the breadwinner.

In my letter of November 20 addressed to Brother Shonka, a copy of which you received, and which I hope both you and your wife read, I briefly suggested that you refrain from giving any statement to any representative of the railroad, particularly a claim agent, before you had an opportunity to be fully advised as to your rights under the law by some attorney well versed and experienced in [fol. 921] handling claims arising under the Federal Employers' Liability Act. I suggested that you be very careful in your dealings with the railroad claim agents; and I did so because it has been the sad experience of the Brotherhood that when any of our injured members fall under the spell of the claim agent's personality or verbal promises, the results have been unfavorable and often disastrous.

Perhaps a little explanation of the function of the claim agent would be proper at this time. The claim agent is hired to save money for the railroad. The claim agent performs no production work, such as switching cars or taking a train over the road. His job is to soften up injured members or the dependents of those killed in the line of duty, so that when a settlement is made, it will cost the railroad much less than the amount to which the injured member or his dependents are entitled. The money saved by the railroads goes to pay wages in the claim department and dividends to the stockholders.

You will see, therefore, that the job of the claim agent is definitely not humanitarian—it cannot include compassion. It is not his duty to see that the injured member is adequately compensated for the loss of his limbs, his pain or suffering, his loss of earning capacity, as well as the full enjoyment of his family. He may pretend that he is doing this—but his job is to save the company money.

Perhaps you and your wife are wondering why we of the Brotherhood are concerning ourselves with you now that you no longer work around box cars. If you had been a member for many years, you would have found that the Brotherhood is interested in every problem which faces our members in connection with their work on the railroad.

Even before the turn of the century when so many of the railroaders were being seriously injured or killed because of inadequate safety devices and safety procedures, our Brotherhood, along with the other operating Brotherhoods, petitioned the Congress of the United States for federal laws to protect our members against the basic hazards of their occupation.

Even after the Safety Appliance Acts and other laws were passed, it was found that the railroads were still failing to furnish our Brothers with a safe place to work; and after accidents, the injured members or their dependents had no way to obtain adequate compensation for the damage they had sustained.

A movement, therefore, was started, spear-headed by many prominent humanitarians such as the Honorable Edward A. Moseley, Secretary of the Interstate Commerce Commission, and some high-minded Congressmen, as well [fol. 922] as the Brotherhoods, to obtain a law strong enough to enable the injured to obtain reasonable compensation. When this law was passed in 1908, called the Federal Employers' Liability Act, we of the Brotherhoods thought that the troubles of our members were over; but, unhappily, this did not happen, because almost immediately the railroads organized claim departments and trained their claim agents in all the arts and persuasions, so that the railroads would be relieved of the major financial responsibility for their failure to supply safe tools, equipment and work places for our members.

As you perhaps know, each four years the Brotherhood of Railroad Trainmen has a convention—at which time all the various problems of our members are discussed and action taken for the benefit of our members. At each convention following the passage of the Federal Employers'

Liability Act in 1908, there were so many of our members who had lost arms or legs or had otherwise been injured congregating at the convention site to tell their tragic tales of how they had been injured or had been cast aside on the industrial scrap heap, that an investigation of these conditions was ordered by the delegates, and a Legal Aid Department established in May, 1930.

The thought behind "legal aid" is to furnish inexperienced people with the skillful type of assistance which, upon request, will enable them to overcome the many legal pitfalls which face those who have little or no knowledge of their rights under the law.

Accordingly, when the Legal Aid Department was established, it was decided to appoint honest, dependable, and experienced attorneys who could be depended upon to give our members or their dependents a square deal.

In your short period of railroading, you no doubt have heard about our Legal Aid Department; and you possibly have heard about Brother Eugene A. Rerat, who is Legal Counsel in your area, and whose address is: 610 Baker Building, Minneapolis 2, Minnesota. I mention his name because, in addition to his other qualifications, he is a man of good Brotherhood spirit; and I am sure that if you ask him any questions or desire any information to protect your own interests, he will be very happy, without any obligation, to furnish you with the highest type advice possible.

Also, because, whenever any serious accident occurs, the railroads immediately try to cover up the evidence or obtain damaging statements from witnesses or from the injured himself, competent and experienced members of the Brotherhood have been appointed as investigators—one of whom is Brother M. M. Verbon. If you talk with him, you will find that the interest of the Brotherhood in you and your wife is genuine and can be helpful.

[fol. 923] You are a relatively young man. No doubt you have been looking forward to financial success and security for your old age. We all do. Unfortunately, we have in us a sense of loyalty to our employers which, though commendable, often leads us astray. This "built-in" sense of

loyalty inclines us to believe in the people who pay our wages on the assumption that our willingness to do a good job for them will be reciprocated, and that they will deal fairly and squarely with us. However, you and I have been hired by the railroads to make money for them; and when our productivity is ended by injury and we are a financial threat to them, we are dangerous to them and are treated accordingly.

This is a long letter. I have devoted much thought to it. If I were talking to you personally, I could probably tell you more or answer whatever questions you may have. Unfortunately, I am restricted to my office by my duties which require me to be helpful to all our members.

However, if you desire to talk to Brother Rerat or to Brother Verbon, I am sure that they will be able to answer your many questions without any obligation to you. They will help you in your search for security and rehabilitation.

I hope that you and your wife will consider the spirit in which I have written this letter, will talk it over carefully, and will compare what I have said with your local lodge officers who have worked with you and who know that what you have suffered could also happen to them.

I have enclosed a stamped, self-addressed envelope for your reply, and I hope that you will feel free to ask any questions or make any comments.

Wishing you the best of luck, and hoping that you will have adequate security until you are able to adjust yourself to whatever limitations now face you, I am

Fraternally yours,

/s/ C. R. MAHER

C. R. Maher, Chief Clerk
Legal Aid Department

CRM:RJT:rl

enc. 1

cc: Mr. W. G. Shonka, Sec.

[fol. 924]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 79

IN THE CIRCUIT COURT OF JEFFERSON COUNTY
ALABAMA

STATE OF ALABAMA)
JEFFERSON COUNTY)

TO ANY SHERIFF OF THE STATE OF ALABAMA
• • • GREETING:

You are hereby commanded to summon SOUTHERN RAILWAY COMPANY, a corporation, to appear before the Circuit Court of said County, to be held at the place of holding the same, within thirty days from service of this process, then and there to answer the complaint of (MRS.) BEATRICE B. BURNETT, who sues in her capacity as Administratrix of the Estate of her deceased husband, BEDFORD T. BURNETT.

WITNESS my hand this 31 day of Dec., 1958.

/s/ JULIAN SWIFT
Clerk

(MRS.) BEATRICE B. BURNETT, who sues in her capacity as
Administratrix of the Estate of her deceased husband,
BEDFORD T. BURNETT,

Plaintiff,

vs.

SOUTHERN RAILWAY COMPANY, a Corporation,
Defendant.

COUNT ONE

The plaintiff (Mrs.) Beatrice B. Burnett, who sues in her capacity as Administratrix of the Estate of her deceased husband Bedford T. Burnett, claims of the defendant the

sum of Two Hundred Fifty Thousand (\$250,000.00) Dollars, as damages, for that heretofore on, to-wit, November 14, 1958 the defendant was a common carrier by railroad and as such was engaged in the business of transporting freight for hire in interstate commerce and plaintiff avers that on said date her said husband was employed by the defendant as a Railroad Trainman and as such he was a member of a train crew of the defendant whose duties required them to move railroad cars with a railroad locomotive over, along and upon a railroad track known as the "Imperial Siding" between Craighead Street and Bridge Street in the City of Danville, Virginia and plaintiff avers that a part of the duties of her said husband as such Railroad Trainman for the defendant was in furtherance of such aforesaid interstate commerce or directly or closely and substantially affected such interstate commerce and plaintiff avers that on said date while her said husband and the other members of the said train crew of the defendant were engaged in and about the movement of railroad cars for the defendant with the railroad locomotive of the defendant along the aforesaid "Imperial Siding" between Craighead Street and Bridge Street in the City of Danville, Virginia and while plaintiff's said husband and the other members of the defendant's said train crew were acting within the line and scope of their employment by the defendant, plaintiff's said husband was caused to be crushed between the side of one of the said moving railroad cars and an obstacle located in such close proximity to the said railroad track along which the said railroad cars were being moved as to make the place dangerous and unsafe for Trainmen of the defendant to perform their work for the defendant in connection with the movement of said railroad cars along the said railroad track and plaintiff avers that the injuries sustained by her husband at the time and place and on the aforesaid occasion resulted in the death of her said husband and plaintiff avers that the said injury and death of her said husband proximately resulted, in whole or in part, from the negligence of the defendant, in that, the defendant [fol. 925] negligently failed to exercise reasonable care to furnish and maintain plaintiff's said husband a reasonably safe place to perform his aforesaid work as a Railroad

Trainman for the defendant and plaintiff avers that this cause of action is based upon and brought under what is generally known as the Federal Employers Liability Act (Title 45, U.S.C.A. Section 51), an act of the Congress of the United States "enacted for the protection and benefit of the dependents of deceased employees of common carriers by railroad engaged in interstate commerce who are killed in line of duty" and plaintiff avers that the action is brought for the use and benefit of herself as the dependent widow of the said Bedford T. Burnett, deceased, and for the use and benefit of Thomas Burnett, dependent minor son of the said Bedford T. Burnett who is 12 years of age, and for the use and benefit of Ronald Burnett, dependent minor son of the said Bedford T. Burnett who is 14 years of age, to recover the pecuniary loss they have sustained and will hereafter sustain as a result of the death of their said husband and father and also to recover the monetary value of special services they would have received from their said husband and father and to recover damages for the conscious pain and suffering of their said husband and father between the time he was injured as aforesaid and the time he died and the plaintiff also claims as additional and special damages for the aforesaid dependent minor children of the said Bedford T. Burnett, deceased, damages for the loss of care, attention, instruction, training, advice and guidance which they would have received from their said father during their minority had he not been killed as aforesaid.

COUNT TWO

The plaintiff (Mrs.) Beatrice B. Burnett, who sues in her capacity as Administratrix of the Estate of her deceased husband Bedford T. Burnett, claims of the defendant the sum of Two Hundred Fifty Thousand (\$250,000.00) Dollars, as damages, for that heretofore on, to-wit, November 14, 1958 the defendant was a common carrier by railroad and as such was engaged in the business of transporting freight for hire in interstate commerce and plaintiff avers that on said date her said husband was employed by the defendant as a Railroad Trainman and as such he was

a member of a train crew of the defendant whose duties required them to move railroad cars with a railroad locomotive over, along and upon a railroad track known as the "Imperial Siding" between Craighead Street and Bridge Street in the City of Danville, Virginia and plaintiff avers that a part of the duties of her said husband as such Railroad Trainman for the defendant was in furtherance of such aforesaid interstate commerce or directly or closely and substantially affected such interstate commerce and plaintiff avers that on said date while her said husband and the other members of the said train crew of the defendant were engaged in and about the movement of railroad cars for the defendant with a railroad locomotive of the defendant along the aforesaid "Imperial Siding" between Craighead Street and Bridge Street in the City of Danville, Virginia and while plaintiff's said husband and the other members of the defendant's said train crew were acting within the line and scope of their employment by the defendant, plaintiff's said husband was caused to be crushed between the side of one of the said moving railroad cars and an obstruction located in close proximity to the said railroad track along which the said railroad cars were being moved and plaintiff avers that the injuries sustained by her husband at the time and place and on the aforesaid occasion resulted in the death of plaintiff's said husband and plaintiff avers that the said injury and death of her said husband proximately resulted, in whole or in part, from the negligence of the officers, agents or employees of the defendant while acting within the line and scope of their employment by the defendant or by reason of a defect or insufficiency due to the negligence of the defendant in its cars, engines, appliances, machinery, track, [fol. 926] roadbed, works or other equipment and plaintiff avers that this cause of action is based upon and brought under what is generally known as the Federal Employers Liability Act, (Title 45, U.S.C.A. Section 51), an act of the Congress of the United States enacted for the protection and benefit of dependents of deceased employees of common carriers by railroad engaged in interstate commerce who are killed in line of duty and plaintiff avers that the

action is brought for the use and benefit of herself as the dependent widow of the said Bedford T. Burnett, deceased, and for the use and benefit of Thomas Burnett, dependent minor son of the said Bedford T. Burnett who is 12 years of age, and for the use and benefit of Ronald Burnett, dependent minor son of the said Bedford T. Burnett who is 14 years of age, to recover the pecuniary loss they have sustained and will hereafter sustain as a result of the death of their said husband and father and also to recover the monetary value of special services they would have received from their said husband and father and to recover damages for the conscious pain and suffering of their said husband and father between the time he was injured as aforesaid and the time he died and the plaintiff also claims as additional and special damages for the aforesaid dependent minor children of the said Bedford T. Burnett, deceased, damages for the loss of care, attention, instruction, training, advice and guidance which they would have received from their said father during their minority had he not been killed as aforesaid. .

RIVES, PETERSON, PETTUS & CONWAY
and THOMAS J. LEWIS, JR.

By /s/ AL. G. RIVES
Attorneys for Plaintiff

The plaintiff demands a jury trial.

RIVES, PETERSON, PETTUS & CONWAY
and THOMAS J. LEWIS, JR.

By /s/ AL. G. RIVES
Attorneys for Plaintiff

[fol. 927]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 80

IN THE CIRCUIT COURT
TENTH JUDICIAL CIRCUIT OF ALABAMA

STATE OF ALABAMA)
JEFFERSON COUNTY)

TO ANY SHERIFF OF THE STATE OF ALABAMA—Greeting:

You are hereby commanded to summon Southern Railway Company, a corporation, to appear before Circuit Court, to be held for said County, at the place of holding the same, within thirty days from service of this process, then and there to answer the complaint of Roy P. Shoaf.

WITNESS my hand this 10 day of March, 1961.

/s/ JULIAN SWIFT
Clerk

COMPLAINT.

ROY P. SHOAF,

Plaintiff,

vs.

SOUTHERN RAILWAY COMPANY, a corporation,
Defendant,

COUNT 1.

Plaintiff claims of the defendant the sum of One Hundred Twenty-five Thousand Dollars (\$125,000.00), as damages for that on, to-wit, the 28th day of September, 1959 the defendant was a common carrier of passengers and freight by railroad and was engaged in commerce between some of the states of the United States, including, among others, the State of Virginia, that on, to-wit, said date

plaintiff was employed by the defendant in the capacity of a brakeman for the defendant; and plaintiff avers that on, to-wit, said date while plaintiff was so employed by the defendant in such interstate commerce and while plaintiff was engaged in and about the performance of his duties as such brakeman for the defendant near Blairs, Virginia, in and about such interstate commerce, the railroad car upon which plaintiff was riding struck a piece of earth moving equipment, and as a proximate consequence thereof plaintiff was injured and damaged as follows:

His ankle, leg and foot were fractured, broken, sprained, strained and otherwise injured; the muscles and ligaments of his ankle, leg and foot were pulled, twisted and torn; he was generally bruised about his body and limbs; his nervous system was greatly shocked and impaired, was permanently shocked and impaired; he was caused to suffer [fol. 928] great physical pain and mental anguish; he was caused to lose much time from his customary work and employment and the remuneration therefrom; he was permanently injured and was permanently rendered less able to work and earn a livelihood; and he was put to great trouble, annoyance, inconvenience, great loss of time and great expense in and about an effort to heal and cure his said wounds and injuries.

And plaintiff avers that all of his said injuries and damages were caused as a proximate result of the negligence of the defendant in and about its failure to furnish plaintiff with a reasonably safe place in which to perform the duties of his employment.

COUNT 2.

For this count of his complaint plaintiff adopts all of the words and figures of Count 1, from its beginning down to and including the words "in and about an effort to heal and cure his said wounds and injuries", where said words first appear together in said Count 1, and adds thereto for this count of his complaint the following:

And plaintiff avers that all of his said injuries and damages were caused as a proximate result of the negligence

of the defendant in failing to notify plaintiff and the members of his crew that said railroad track was blocked and fouled by said earth moving equipment prior to the time of the collision complained of above.

COUNT 3.

For this count of his complaint plaintiff adopts all of the words and figures of Count 1, from its beginning down to and including the words "in and about an effort to heal and cure his said wounds and injuries", where said words first appear together in said Count 1, and adds thereto for this count of his complaint the following:

And plaintiff avers that all of his said injuries and damages were caused as a proximate result of the negligence of the defendant in and about causing or allowing said railroad track at the time and place of the collision complained of to be blocked or fouled by said earth moving equipment.

COUNT 4.

For this count of his complaint plaintiff adopts all of the words and figures of Count 1, from its beginning down to and including the words "in and about an effort to heal [fol. 929] and cure his said wounds and injuries", where said words first appear together in said Count 1, and adds thereto for this count of his complaint the following:

And plaintiff avers that all of his said injuries and damages were caused as a proximate result of the negligence of the defendant in causing or allowing workmen who were inexperienced and incompetent in maintenance of way work on railroad tracks to be in charge of said earth moving equipment and to block or foul the railroad track at the time and place of the collision.

COUNT 5.

For this count of his complaint plaintiff adopts all of the words and figures of Count 1, from its beginning down to and including the words "in and about an effort to heal and cure his said wounds and injuries", where said words

first appear together in said Count 1, and adds thereto for this count of his complaint the following:

And plaintiff avers that all of his said injuries and damages were caused as a proximate result of the negligence of the defendant, its officers, agents or employees, acting within the line and scope of their employment as such officers, agents or employees, in notifying the operator of said earth moving equipment that said railroad track would not be in use at the time of the collision complaint of herein.

COUNT 6.

For this count of his complaint plaintiff adopts all of the words and figures of Count 1, from its beginning down to and including the words "in and about an effort to heal and cure his said wounds and injuries", where said words first appear together in said Count 1, and adds thereto for this count of his complaint the following:

And plaintiff avers that all of his said injuries and damages were caused as a proximate result of the negligence of the defendant in failing to furnish plaintiff with a back-up whistle or warning device to warn persons or machinery who might be on or near the track.

COUNT 7.

For this count of his complaint plaintiff adopts all of the words and figures of Count 1, from its beginning down to and including the words "in and about an effort to heal and cure his said wounds and injuries", where said words first appear together in said Count 1, and adds thereto for this count of his complaint the following:

And plaintiff avers that all of his said injuries and damages [fol. 930] were caused as a proximate result of the negligence of the defendant in failing to furnish plaintiff with an adequate and accessible means of applying the brakes on the train on which plaintiff was riding at the time and place of the collision in question.

COUNT 8.

For this count of his complaint plaintiff adopts all of the words and figures of Count 1, from its beginning down to and including the words "in and about an effort to heal and cure his said wounds and injuries", where said words first appear together in said Count 1, and adds thereto for this count of his complaint the following:

And plaintiff avers that all of his said injuries and damages were caused as a proximate result of the negligence of the defendant in so loading said railroad car on which plaintiff was riding as to not allow plaintiff a reasonable opportunity to move about and extricate himself from a position of danger after the collision with said earth moving equipment became imminent.

HIGGINS WINDHAM PERDUE & JOHNSON
LEWIS LEWIS WHALEY & CAGLE
Attorneys for Plaintiff

Plaintiff demands a jury for the trial of this case.

HIGGINS WINDHAM PERDUE & JOHNSON
LEWIS LEWIS WHALEY & CAGLE
Attorneys for Plaintiff

[fol. 931]

CLERK'S CERTIFICATE AS TO ORDER IN CASE

THE STATE OF ALABAMA,
JEFFERSON COUNTY.

CIRCUIT COURT
Tenth Judicial Circuit of Alabama

No. 52617-X

I, the undersigned, as Clerk of said Circuit Court, in and for said State and County, do hereby certify that in the cause of Roy P. Shoaf Plaintiff, vs. Southern Railway Company, a corporation Defendant, the following order was made, to-wit:

1018

June 23, 1961. On motion of the plaintiff, case dismissed without prejudice and costs taxed against plaintiff.

THOMAS E. HUEY, Judge

Witness my hand, this the 2 day of October 1961.

/s/ JULIAN SWIFT
Clerk Circuit Court.

[SEAL]

[fol. 932]

No. 52617-X

THE STATE OF ALABAMA,
JEFFERSON COUNTY.

CIRCUIT COURT

ROY P. SHOAF Rt. 2, Box 43 Salisbury, N. C.

VS.

SOUTHERN RAILWAY COMPANY, a corp. Transportation Bldg.
Birmingham, Alabama.

CLERK'S CERTIFICATE
AS TO ORDER IN CASE

[fol. 933-934]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 81

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
AT RICHMOND

ROY P. SHOAF,

Plaintiff,

vs.

SOUTHERN RAILWAY COMPANY, a Virginia corporation,
Serve process on: THOMAS B. GAY, Esquire, Registered
Agent Electric Building Richmond, Virginia;

and

J. E. SCEARCE R. F. D. 1, Box 57 Westover Hills
Danville, Virginia,

Defendants.

COMPLAINT

Civil Action No. 3313

1. The defendant, Southern Railway Company, a common carrier by railroad in Interstate Commerce, is a corporation organized and existing by virtue of the laws of the State of Virginia with its Registered Agent, Thomas B. Gay, located in the City of Richmond, Virginia. This action arises under the "Federal Employers' Liability Act", 45 U.S.C.A., Section 51 et seq., "Safety Appliance Acts", 45 U.S.C.A., Section 1 et seq., and Orders of the Interstate Commission, promulgated in accordance with the provisions of the said Safety Appliance Acts. Jurisdiction of this Court as to the defendant, Southern Railway Company, is conferred by said Acts.

2. Jurisdiction as to the defendant, J. E. Searce, is founded on diversity of citizenship and amount. The plain-

tiff is a citizen of the State of North Carolina, and the [fol. 935] defendant, J. E. Searce is a citizen of the State of Virginia. The amount in controversy exceeds, exclusive of interest and costs, the sum of Ten Thousand Dollars, (\$10,000.00).

3. On or about the 20th day of September, 1939, at approximately 7:00 o'clock A.M., near Blairs, Virginia, the plaintiff sustained personal injury.

4. At the time and place the plaintiff suffered the injuries to his person, the defendant, Southern Railway Company, was a common carrier by railroad engaged in Interstate Commerce and the plaintiff, employed by the defendant, Southern Railway Company, as a brakeman, was engaged in the performance of his duties for the said defendant railroad company in the furtherance of Interstate Commerce.

5. In the performance of his duties as a brakeman, the plaintiff was riding the lead car of work train No. 6220, which car, among other cars, was being shoved by the locomotive toward Motley's Crossing, approximately one-half mile south of Blairs, Virginia.

6. At the same time, a certain crane, owned, operated and controlled by the defendant, J. E. Searce, and being operated by an employee of the said defendant, J. E. Searce, acting within the scope of his employment at the time, was on the railroad tracks at Motley's Crossing, near Blairs, Virginia and the operator of the said crane was using the said crane to perform certain cleaning operations around the said railroad tracks when a collision occurred between the said work train No. 6220 and the said crane, resulting in injuries to the plaintiff.

7. The defendant, Southern Railway Company, its officers, agents and employees negligently failed to provide [fol. 936] the plaintiff with a reasonably safe place to work, safe appliances or adequate or safe equipment; required the plaintiff in the performance of his duties to ride on a car that was defective and dangerous in that the car was not properly equipped with brakes or braking devices which would allow the plaintiff to apply brakes on the work train.

in question and in that it was not properly equipped with a break up whistle or some other type of warning device which would allow the plaintiff to warn persons or operators of machinery who might be on or near the tracks of the approach of the said work train; failed to blow the whistle or sound any warning device to warn the said crane operator of the approach of the said train; failed to apply the brakes on the said work train in time to bring the train to a halt and avoid the collision in question; failed to properly and adequately direct, instruct and supervise the plaintiff and members of his train crew; failed to properly and adequately inspect the track, premises, train, cars, equipment and appliances; failed to warn the plaintiff of the dangerous and/or defective condition of the track, premises, train, cars, equipment and appliances; permitted the train, its cars, equipment and appliances to be maintained and/or operated in a careless and dangerous manner; failed to provide a sufficient number of trained and properly instructed personnel to safely perform the work; failed to observe the "Operating Rules" and "Safety Instructions" promulgated for the efficient and safe operation of the defendant railroad company's trains and safety of its employees; engaged in a dangerous method or practice in the operation of its trains and equipment at or near the site of the crane being operated on the tracks at Motley's Crossing by the defendant; J. E. Searce, and the defendant, Southern Railway Company, its officers, agent [fol. 937] and employees carelessly and negligently conducted themselves with reference to the operation, maintenance and control of the tracks, train, equipment, appurtenances and appliances.

8. The defendant, J. E. Searce, through his agents, servants and/or employees, acting within the scope and course of such agency, service and employment, was careless, reckless and negligent in the operation of its said crane at the time and place of the aforesaid collision.

9. The plaintiff further alleges that each defendant was negligent in failing to cooperate with the other, and/or coordinate their respective activities in and around said railroad crossing so as to prevent, alleviate, remedy, or give notice to the train crew, and the plaintiff in particular,

of the dangerous condition or hazardous situation created by said crane being operated on the tracks at Motley's Crossing, Blairs, Virginia, at the time the said work train was scheduled to arrive at said crossing.

10. The negligence of the defendant, Southern Railway Company, caused the personal injury to the plaintiff; or in the alternative, the negligence of the defendant, J. E. Searce, caused the injury to the plaintiff; or in the alternative, the negligence of both defendants concurrently caused or contributed to cause the injury sustained by the plaintiff.

11. As a result, plaintiff was caused to sustain serious and permanent injuries; has been prevented from transacting his business; has suffered and will continue to suffer great pain of body and mind; has sustained permanent [fol. 938] disability, deformity and loss of earning capacity; and has been caused to incur and will have to incur in the future, large hospital, doctors' and related bills in an effort to be cured of said injuries.

WHEREFORE, plaintiff demands judgment against the defendants, jointly and severally, in the sum of One Hundred Fifty Thousand Dollars, (\$150,000.00) and costs.

Trial by jury is demanded.

ROY P. SHOAF

By /s/ WILBUR C. ALLEN
Wilbur C. Allen

(Allen, Allen, Allen and Allen)
4020 West Broad Street
Richmond, Virginia,
Attorney for the plaintiff.

Dated: July 12, 1961.

By

T. J. Lewis, Jr.

(Lewis, Lewis, Whaley & Cagle)
905 Healey Building
Atlanta 3, Georgia
Attorney for the plaintiff.

Dated: July 12, 1961.

gld: 7/10/61.

[fol. 939]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S EXHIBIT 82

CHANGES IN LEGAL COUNSEL SINCE
OCTOBER, 1949

Parnell Black, Salt Lake City Utah, died September 4, 1951, *Calvin W. Rawlings*, Salt Lake City, Utah, appointed Sept. 10, 1951, having jurisdiction over members on the D. & R. G. Railroad, and Ogden Union Railway and Depot Company, and all cases on the Union Pacific Railroad in Utah and Idaho, where members are not hospitalized in Los Angeles. Later Union Pacific members in Wyoming, Idaho and Colorado were also assigned to him.

Firm of Davis, Yaeger & McGinley & Lush, in Minneapolis, changed to *Davis, Yaeger and Lush* when *McGinley* resigned on July 15, 1951, *Rerat* appointed on July 15, 1951, and firm became *Davis, Rerat, Yaeger & Lush* on that date. That firm dissolved on January 1, 1956, splitting into three parts. The firm of *Lush and Davis* having jurisdiction on the following Lodges: 520, 30, (C. & S.), 32 (MP), 193, 446 (CB&Q and SF), 646, 655, 680 (CB&Q and C&S) 796, 288 (C&S) 660, 763, 19, 20, 46 (CB&Q) 92 (CB&Q and C.G.W) 272, 333, 439 (CB&Q), 528, 690, 732, 928, 945 and 1013 and 29, 101, 111, 134, 135, 170, 190, 360, 400, 487, 493, 598, 604, 642, 853.—The firm of *Eugene A. Rerat* having jurisdiction over the following lodges: 194, 339, 569, 746, 799, 820, 831, 889, 334, 450, 918, 9, 12, 28, 56, 86, 104, 138, 152, 171, 204, 212, 247, 319, 341, 348, 352, 387, 485, 522, 546, 602, 707, 724, 737, 859, 873, 967, 125, 463, 676, 709, 919, 936, 1081, 1104, 61, 673, 714, 791, 809, 213, 295, 328, 405, 457, 580, 597, 614, 670, 777, 811, 814, 834, 886, 917, 1004, 196 (with Hanley), 307 (with Hanley), 403, (Milw. and N.P. ONLY), 572 (with Hanley), 645 (with Hanley), 667 (with Hanley) 667 (with

Hanley), 833, (with Hanley), 864 (with Hanley) 990 (with Hanley) 1015 (with Hanley) 1074 (with Hanley), 559 (with Hanley) 974, except cases arising between Klamath Falls and Beaver Calif, with go to Hildebrand. The Firm of Carl L. Yaeger has jurisdiction over the following lodges: 83, 102, 122, 139, 283, 334, 384, 436, 464, 510, 525, 625, 640, 683, 708, 764 and 804. 128, 151, 176, 177, 191, 210, 282, 303, 357, 410, 428, 445, 516, 607, 609, 657, 888, 942 and 1052. 26, 60, 183, 515, 10, 103, 182, 612, 638 and 1098, 4 (I.C. only) 6, 11, 24, 25, 41, 91, 115, 119, 50, 192 (C.B.&Q., I.C., S.F., R.I. and Milw) 271 (I.C.) 285, 364, 372 (C.B.&Q.) 375, 424, 474 (S.F. only) 479 (C.B.Q., CGW and Soo) 531 (R.I. & Milw.), 563, 617, 700 (I.C.) 788, 830, 874, 877, 900, 931, 940, 965 and 1037.

John H. Haley, Jr. appointed Counsel on January 20, 1954, with jurisdiction over following lodges, 5, 45, 57, 64, 106, 167, 203, 205, 358, 365, 378, 508, 513, 542, 588, 637, 656, 696, 855, 1086 (also 46, except C.B. & Q. members) (also 92, Except C.B.&Q. and C.G.W. members), (also 429, except C.B.&Q. men) *Haley resigned on February 8, 1956*, and his resignation accepted on 2-11-56. Lodges given to Dan McGlynn.

Frank C. Hanley died on October 25, 1956, and the lodges he had sole jurisdiction over were given to Hildebrand, and the lodges that he had which were split between Hanley and Rerat, were given to Rerat.

[fol. 940] *E. B. Henslee, Sr.* died on November 22, 1958, and E. B. Henslee, Jr. and Martin K. Henslee were appointed Counsel, making the firm name *Henslee & Henslee* and they had the same territory formerly assigned to E. B. Henslee.

George S. King was Counsel in Texas, and took *M. M. Davis* and *Wm. States Jacobs* in with him as associates. *Davis and Jacobs were appointed Counsel sometime between August, 1950 and September, 1951* (dates not on cards and not in file), and *Davis went to Dallas* to establish a branch office in July, 1950, leaving *Jacobs and King in Houston. King resigned on September 1, 1951, Schmidt joined Jacobs*, making the firm of *Jacobs and Schmidt* on October 1, 1951. Firm remained split until July 1,

1958, when Davis returned to Houston, making the firm of *Jacobs, Davis & Schmidt* (Schmidt was still not appointed as Counsel, but just in firm name). Firm split on July 1, 1960, *Jacobs and Davis staying together*, and *Schmidt going by himself*. *Jacobs died on July 19, 1960*, and *Davis joined with Shirley Helm Schmidt and Helm were appointed Counsel on September 1, 1960*, and Davis pulled out of Helm's firm middle of October, 1960, and formed his own firm, making three Counsel in Texas, all having equal jurisdiction over all lodges in Texas.

Francis L. McElroy died on September 24, 1958, and W. P. Kennedy appointed *J. Murray Dunn* on September 25, 1958, to have jurisdiction over same lodges McElroy had.

Joseph B. McGlynn died on December 14, 1953, and W.P.K. appointed *Dan McGlynn* on May 1, 1954, to handle remaining lodges that had not been given to Haley when he was appointed the previous January. (Remember, Haley resigned and his lodges were given back to Dan McGlynn on February 8, 1956.)

Thomas C. O'Brien, Boston, Mass., died on November, 1951, and W.P.K. appointed *John S. Stone* on February 1, 1952, to handle lodges formerly in the jurisdiction of O'Brien. *Stone died in 1953*, and the firm of *MacCormack and Feeney in Boston*, were appointed to handle lodges formerly handled by Stone on November 1, 1953. *MacCormack resigned as Counsel and from the firm on September 21, 1958*, leaving only Feeney to handle lodges in the Boston area.

Alex S. Dombey appointed Counsel on September 1, 1960 (Columbus Ohio) with no specific jurisdiction.

Tom J. Lewis, Jr. appointed Counsel on May 15, 1952 to assist his Father, Tom, Sr. in Atlanta Area.

James P. McArdle (Pittsburgh, Pa.) appointed Counsel on March 1, 1960, with jurisdiction over following lodges formerly under Henslee & Henslee 63, 105, 159, 18, 199.

231, 258, 299, 309, 510, 345, 386, 425, 447, 456, 461, 467, 521, 534, 553, 571, 573, 591, 632, 703, 719, 743, 753, 775, 872, 948, 954, 955, 997, 1010, 1018, 1035, 1053, 1092, 1096.

[fol. 941] *Robert E. McGlynn, appointed October 1, 1960, to assist Dan McGlynn in East St. Louis territory.*

Cornelius U. O'Brien, Jr. appointed May 1, 1960, to have jurisdiction over the following lodges, formerly under the jurisdiction of Henslee & Henslee. 42, 43, 117, 153, 160, 174, 257, 338, 383, 444, 476, 488, 498, 511, 541, 574, 694, 787, 989, 1021.

William W. Ramsey appointed May 1, 1952 to assist Father Wallace (Judge) in the Vicksburg, area.

James B. Ramsey appointed sometime around 1956 or '57 to assist his father and brother in the Vicksburg area (no date in file on actual appointment)

Payne H. Ratner, Jr. appointed to assist his father Payne Sr. in the Wichita, Kansas area. Appointment effective January 1, 1957.

Carl L. Yaeger, Jr. appointed December 1, 1956 to assist his father, Carl, Sr. in the Minneapolis area.

William J. Yaeger appointed July 26, 1961 to assist his father and brother in the Minneapolis area.

Zelenko & Elkind appointed December 1, 1958 in the New York area to have jurisdiction over the following lodges, which were formerly under the jurisdiction of McElroy and later J. Murray Dunn, mentioned above. Lodge 2, 7, 40, 73, 87, 162, 197, 202, 253, 254, 353, 491, 517, 527, 552, 560, 598, 623, 678, 706, 731, 750, 754, 755, 765, 807, 823, 829, 846, 848, 867, 885, 946, 949, 959, 961, 963, 983, 1006, 1047, 1054, 1056, 1069, 1090.

Note: On July 16, 1949, A. F. Whitney, then President of the B. of R. T. died and the Board of Directors appointed W. P. Kennedy as President on July 19, 1949. On October 12, 1949, Kennedy cancelled the appointment as Legal Counsel of every Counsel, and on the same date, re-issued their appointment in his name.

LIBRARY
SUPREME COURT, U. S.

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1905

No. 34

BROTHERHOOD OF RAILROAD TRAINMEN,
PETITIONER,

vs.

VIRGINIA, EX REL. VIRGINIA STATE BAR.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF APPEALS
OF THE COMMONWEALTH OF VIRGINIA

PETITION FOR CERTIORARI FILED NOVEMBER 3, 1905
CERTIORARI GRANTED FEBRUARY 12, 1906

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1963

No. 34

**BROTHERHOOD OF RAILROAD TRAINMEN,
PETITIONER,**

vs.

VIRGINIA, EX REL. VIRGINIA STATE BAR.

**ON WRIT OF CERTIORARI TO THE SUPREME COURT OF APPEALS
OF THE COMMONWEALTH OF VIRGINIA**

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RECORD PRESS, PRINTERS, NEW YORK, N. Y., SEPTEMBER 25, 1963

Record from the Chancery Court of the City of
Richmond, Virginia—Continued

PLAINTIFF'S NELSON EXHIBITS—Continued

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Plaintiff's Nelson Exhibit A

Hunder

23861.52

4/11-3561.00
5/12-5000.00
6/19-5000.00
7/11-5000.00

L. A.
L. A.

✓ 12174.50
44.00

12/2-6000.00
12/17-6174.50
5/23-149.50

Mc E

✓ 8664.50

4/4-4332.25
12/10-4332.25

J. J. J.

✓ 4173.00

5/23-2086.50
12/14-2086.50

H. H.

✓ 3991.00

12/30-3991.00

Mc G. H.

3640.00

m m m m

✓ 1917.50

5/23-4557.50
766.00

1.25 credit

L. L.

✓ 1549.00

5/21-799.50
12/27-799.50

R. R.

✓ 1573.00

4/9-786.50
14/11-786.50

R. R.

✓ 1196.00
34.50
12/2-1230.50

5/2-6000.00
12/17-5546.00
11/19-600.00

R. R.

✓ 1066.00

5/26-500.00
12/17-330.00
12/17-330.00

W. W.

✓ 702.00

5/12-551.00
12/10-551.00

H. H.
Black

104.00

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA
PLAINTIFF'S NELSON EXHIBIT "A"

[fol. 42]

Pho. 11 75253
1954

160,000

| | T | T | % | |
|-----------------|-----------|-----------|------|---------|
| EB Hinkle | 287299364 | 290475320 | 3526 | 19722- |
| D R y. L | 174367320 | 175527279 | 2127 | 1191850 |
| Mc Elroy | 79554013 | 80729966 | 997 | 548350 |
| Hildebrand | 74793748 | 75969701 | 938 | 555900 |
| Savage | 387894- | 39965353 | 495 | 272250 |
| Rawlings | 320095- | 33185453 | 410 | 2355- |
| R. L | 19984540 | 21160499 | 261 | 1435- |
| L. L | 10652320 | 17828273 | 220 | 1210- |
| J R. P. | 16490259 | 17666212 | 218 | 1299- |
| m m Davis | 15521435 | 16697388 | 200 | 1153- |
| W. P. Jacobs Jr | 142500 | 15425953 | 190 | 1095- |
| Dan Mc G. | 140000 | 15175953 | 187 | 102450 |
| Ratner | 55000 | 6675953 | 82 | 551.3 |
| O y m G. L. | 23000 | 3475953 | 43 | 27650 |
| | | 809959252 | 100 | 55000- |
| J S Stone | 11338349 | | | |
| J B m G. | 50000 | | | |
| Osborne | 1250 | | | |
| | 809959252 | 809959252 | 100% | 55000- |

[fol. 943]

1955

Handwritten notes:
 25,000
 3,222.00
 111,299.00
 30,000.00
 19,723.00
 19,723.00
 19,723.00

Handwritten notes:
 9/1 - 11,000.00
 10/1 - 3,000.00
 Paid 14,000.00

| | 1954 bal | 1954 credit | | Total owed | |
|------------|-------------------|-------------|-------------|-------------|--|
| Bonalee | \$19,723.00 | | \$19,109.25 | | 3 4-1 2500 = 7.9 1222.00 9/1- 1,113.00 President 10/1- 1,113.00 10/1- 1,113.00 10/1- 1,113.00 |
| D R Y & L | - | \$236.50 | 12,412.89 | \$12,176.39 | ✓ 6/6 6,176.39 |
| McElroy | - | - | 7,189.41 | 7,189.41 ✓ | 4/6 - 7,189.41 |
| Hildebrand | - | - | 6,328.14 | 6,328.14 | ✓ 8/10 - 3,328.14 1912 3,000.00 |
| Savage | - | - | 1,821.72 | 1,821.72 ✓ | 4/30 - 1,821.72 |
| McGlynn | - | 1.50 | 1,694.61 | 1,639.11 ✓ | 11/1 - 1,700.00 01. 689 |
| Ravling | - | - | 1,676.94 | 1,676.94 | ✓ 7/1/52 1,000.00 2/1/52 676.94 |
| Jacobs | - | - | 1,476.30 | 1,476.30 ✓ | 11/1 - 1,000.00 2/1 - 476.30 |
| L & L | - | - | 1,179.90 | 1,179.90 ✓ | 1/1 - 1,179.90 |
| Devis H M | - | \$68.25 | 1,090.41 | 1,022.16 | 12/11 1022.16 |
| J R & P | - | - | 975.27 | 975.27 ✓ | 5/7 - 975.27 |
| Maloy | \$219.50 salaries | - | 729.03 | 948.53 | 4/9 421.95 |
| R & R | - | - | 708.51 | 708.51 ✓ | 6/29 - 708.51 |
| Batner | - | - | 421.80 | 421.80 ✓ | 7/19 - 421.80 |

[fol. 944]

10/1 01. 934
80

| | | | | | |
|------------|---|-------------------|----------|-------------|-------------------------------------|
| McElroy | - | - | 7,189.41 | 7,189.41 ✓ | 4/6 - 7,189.41 |
| Hildebrand | - | - | 6,328.14 | 6,328.14 | 8/10 - 8,328.14 9/12 3,000.00 |
| Savage | - | - | 1,821.72 | 1,821.72 ✓ | 4/30 - 1,821.72 |
| McGlynn | - | 1.50 | 1,694.61 | 1,693.11 ✓ | 01. 699 1/11 - 1700.00 |
| Rawlings | - | - | 1,676.94 | 1,676.94 ✓ | 7/4/62 - 1,000.00 11/1/51 676.94 |
| Jacobs | - | - | 1,476.30 | 1,476.30 ✓ | 11/31 - 1000.00 8/1 - 476.30 |
| L & L | - | - | 1,179.90 | 1,179.90 ✓ | 4/1 - 1,179.90 |
| Devis H H | - | \$68.25 | 1,090.41 | 1,022.16 | 12/11 1025.00 |
| J R A P | - | - | 975.27 | 975.27 ✓ | 5/7 - 975.27 |
| Malay | - | \$219.50 salaries | 729.03 | 948.53 | 4/9 - 948.53 |
| R & R | - | - | 708.51 | 708.51 ✓ | 6/29 - 708.51 |
| Batner | - | - | 421.80 | 421.80 ✓ | 7/19 - 421.80 |
| MacO & F | - | - | 160.17 | 160.17 | 01. 939 10/18 161.00 |
| Malay | - | - | 25.65 | 25.65 ✓ | 6/11 25.65 |
| | | | 306.25 | \$57,000.00 | 56,693.75 |

* incl 219.50 salaries

[fol. 944]

944

1955

57,800.00
51,541.27

+ Pension
63,000.00

Hendee

290883368 ✓ 2912.791.18 33525 19.109.25

Dry & L

1.888 63702 ✓ 1.891.974.52 21.777 12.412.89

Mc E

1.09192882 ✓ 1.095.866.32 12.613 7.189.41

Wildebrand

960, 65793 ✓ 964.589.43 11.102 6.328.14

Savage

27375000 ✓ 277.687.50 3.196 1.821.72

Mc Glynn

25440000 ✓ 258.337.50 2.973 1.694.61

Rawling

251.690.25 ✓ 255.627.75 2.942 1.676.94

178,431.00 - 20,000.00
158,431.00

* Jacobs

221.10000 ✓ 225.037.50 2.590

included 46,500.00 for K & J

L & L

175.964.08 ✓ 179.901.58 2.070 1.179.90

Davis m m

162.238.81 ✓ 166.176.31 1.913 1.090.41

104,977.00 - 12,000.00
92,977.00

J R & P

144.710.43 ✓ 148.647.93 1.711 975.27

Halcy

107.200.00 ✓ 111,137.50 1.279 729.03

Plus
219.50

Ramsey & R

104.057.36 ✓ 107.994.86 1.243 708.51

Ratner

60.350.00 ✓ 64.287.50 .740 421.80

Macl & J

2047662 ✓ 24414.12 .281 160.17

[fol. 945]

D. Y. L.
The E.

1.888 63702.1891.974.52 21.777 12 412.89
1.09192882.1.09 5,866.32 12.613 * 7.189.41

Wildebrand

960, 65793. 964 58943 11.102 6.328.14

Savage

27375000. 277687.50 3.196 1.821.72

Mc Glyn

25440000. 258 337.50 2.973 * 1.694.61

Rawling

251.690.25. 255.627.75 2.942 1.676.94
^{178 437.50 - 2.000}
^{2.100 - 2.000}
^{100 - 5.50}
31995 1.476.30

* Jacobs

included 46.500000 for K. J.
L & L

221.10000 - 225037.50 2.590
175.964.08. 179 901.58 2.070 * 1.179.90

Davis m m

162.238.81. ^{104 437.50 - 2.000}
^{611 176.31} 1.913 ^{689.56}
^{421.25} 1.090.41

J R. P

144.780.43. 148.647.93 1.711 * 975.27

Halley

107.200.00. 111, 137.50 1.279 ^{plus}
^{addition}
^{219.50} 729.03

Ramsey & R

104.057.36. 107.994.86 1.243 * 708.51

Ratner

60.350.00. 64.287.50 .740 * 421.80

Macl & J

20476.62. 24414.12 .281 * 160.17

Harley

3937.50. .045 * 25.65

63000.00

8.688,409.00 8.688,409.00 57.000 ⁰⁰
⁴⁵

[fol. 945]

1030

1950

| Customer | 1955 bal | 1955 credit | 1955 | Total owed |
|-----------------|-------------|-----------------|-------------|--|
| Hesslein | \$19,189.25 | | \$20,185.60 | |
| founder | 1.885.00 | 1956 settlement | | 973.21,224.25 |
| | 17,224.25 | | | |
| McElroy | 722.25 | 1/10 | 7,574.80 | 3/8 - 7,574.80 |
| | 10,400.00 | 10.00 | | |
| DRY & L | | | 7,093.40 | 3/12 4000.00 8/2 3093.40 |
| Savage | | | 5,028.60 | 5/13 - 25,143.00 11/14 2314.30 |
| McGlynn | | \$6.89 | 3,021.80 | 83.004.81 3/518 3-22 3100.00 |
| Hildebrand | | | 2,714.40 | 7-26 2,714.40 |
| Ramsey & Ramsey | | | 2,453.40 | 11-25-404.45 4/1710.5 11/14 404.45 12-16-404.45 |
| Ratner & Ratner | | | 1,890.80 | 11/14-57 1,890.80 |
| Rawlins | | | 1,803.80 | 4/15 1,000.00 11/14 500.00 11-12 300.00 |
| Jacobs | | | 1,635.60 | 4/12 1,000.00 * 4/15 635.60 |
| Lewis & Lewis | | | 1,160.00 | 3/11 - 1,160.00 |
| MacC & Pacey | | .83 | 1,044.00 | 81.043.17 |
| JR & P | | | 684.40 | 7/11 - 684.40 |
| Boyle | | 2.84 | 574.20 | 571.36 |
| Boyle & Boyle | | | 388.60 | PA 12-29 571.36 3/4/57-388.60 |
| Boyle | | | 237.80 | 3/1/57 237.80 |

872 309390 ✓

7/13-251430 ✓
8/14 2314.20 ✓

Savage ✓

5,028.60

McFlynn ✓

\$6.89

3,021.80

83.024.81 2/18 3-22(3100) 00 ✓

Hildebrand ✓

2,714.40

7-26 2,714.40 ✓

Ramsey & Ramsey ✓

2,453.40

11-25-404.45 ✓
4/17/80 ✓
8/14 404.45 ✓
12-16-404.45 ✓
8/23/80 ✓

Ratner & Ratner ✓

1,890.80

14/4-57 1,890.80 ✓

Rawlings ✓

1,803.80

4/15 1,803.80 ✓
8/14 1,803.80 ✓
11-12 1,803.80 ✓

Jacobs ✓

1,635.60

4/15 1,635.60 ✓
* 4/15 1,635.60 ✓

Lewis & Lewis ✓

1,160.00

3/4-1.160.00 ✓

McG & Pacey ✓

.83

1,044.00

\$1.043.17

J&P ✓

684.40

7/13-694.40 ✓

Barth ✓

2.84

574.20

571.36

PA 12-27 ✓
571.36

Barth & Barth ✓

388.60

3/4/57-388.60 ✓

Barth ✓

237.80

3/4/57-237.80 ✓

Barth ✓

208.80

3/4-208.80 ✓

[Vol. 946]

846

| COUNSEL | 1956 balance | 1957 | 1957 Total owed | Payments |
|---------------|--------------|-----------|--------------------|--|
| X Henslee | \$30,485.60 | 19,913.00 | + 0 | No Payments for 1955, 1956 & 1957 P.W.P.K. |
| McElroy ✓ | | 9,049.74 | | 2-27-58 — 9,049.74 |
| Hildebrand ✓ | | 3,996.92 | | Rec'd 7-29-58 \$ 3,996.92 |
| Rerat ✓ | | 3,436.16 | | 7-29-58 \$1,486.16 8-25-58 2,000.00 |
| McGlynn ✓ | | 2,791.88 | | 3-6-58 - 2,792. (1958 - Cash) \$12 |
| Jaeger ✓ | | 2,756.08 | | 3-10-58 2,756.08 |
| X D.R.Y.&L. | | 2,630.81 | + 0 | |
| Ratner ✓ | | 2,572.15 | | 9-8-58 \$2,571.45 |
| Jacobs ✓ | | 2,362.36 | | 3-10-58 (1,800 Cash) (1958 CR) 3-11-58 (1,600 Cash) (1958 CR) \$37.64 |
| Lewis ✓ | | 2,147.60 | | 7-11-58 \$2,147.60 |
| Savage ✓ | | 2,076.01 | | 3-3-58 2,076.01 |
| Ramsey ✓ | 100.00 | 1,700.18 | 2,100.18 | 7-21-58 - 87,250 8-11-58 850.12 2,000.18 |
| Reefings ✓ | | 1,437.70 | | 9-17-58 \$1,437.70 |
| Lusk ✓ | | 972.38 | | Rec'd 7-8-58 \$972.38 |
| Mac & Pomeroy | 10,485.60 | 1,80.01 | 1723.24 | |

| | | | | |
|---------------|---------|----------|----------|---|
| McElroy ✓ | | 9,049.74 | | 2-27-58 — 9,049.74 |
| Hildebrand ✓ | | 3,996.92 | | Rec'd 7-29-58. \$ 3,996.92 |
| Rorat ✓ | | 3,436.16 | | 7-29-58 } \$1,486.16 3-28-58 } 2,000.00 |
| McGlynn ✓ | | 2,791.88 | | 3-6-58 - 2,792. (1958 - Cash) \$12 |
| Jaeger ✓ | | 2,756.08 | | 3-10-58 2756.08 |
| X D.R.Y. & L. | | 2,630.31 | + () | |
| Ratner ✓ | | 2,572.15 | | 9-3-58 \$2,571.45 |
| Jacobs ✓ | | 2,362.36 | | 3-10-58 (1,800 Cash) (1958 CR) 3-11-58 (1,562.36 Cash) (\$37.64) |
| Lewis ✓ | | 2,147.60 | | 7-11-58 \$2,147.60 |
| Savage ✓ | | 2,076.01 | | 3-3-58 2,076.01 |
| Rumsey ✓ | 400.00 | 1,700.18 | 2,100.18 | 7-21-58 - \$1,250 3-11-58 850.12 2,000.18 |
| Beddings ✓ | | 1,437.70 | | 9-7-58 \$1,437.70 |
| Lush ✓ | | 972.38 | | Rec'd 7-8-58 \$972.38 |
| Mac & Pomeroy | 1073.21 | 680.41 | 1723.24 | |
| J. S. A. ✓ | | 668.14 | | 3-24-58 668.14 |
| Davis | | 465.31 | | |

1958

LEGAL
COUNSEL1957
balance

1958

Total owed

Payments

~~Hen Lee~~

\$15,160.00

McElroy

6,545.00

Rec'd 2-3-59 \$6,545.-

Hildebrand

4,665.00

Rec'd 3-11-59 \$4,665.

McGlynn

3,570.00

Rec'd 2-16-59 - \$3,570.

Jaeger

3,480.00

Rec'd 3-30-59 \$3,480

Lush

3,040.00

Berat

2,745.00

Rec'd 3-18-59 \$2,745.

Ramsey

2,090.00

Rec'd 2-4-59 \$700

Rec'd 3-9-59 1390
2090

Jacobs

1,680.00

Cash rec'd 3-10-59
\$1,680

Lewis

1,535.00

Rec'd 2-4-59 \$1,535.

Ratner

1,255.00

Rec'd 2-6-59 \$1,255.

Rawlings

1,035.00

Rec'd 3-9-59 \$1,035

Savage

1,020.00

Rec'd 2-12-59 \$1,020.

Rives

880.00

Cash rec'd 2-5-59 - \$880

TOTAL

2,630.00

665.00

| | | | | |
|---------------|-----------------------|----------|------------|---|
| ✓ Hildebrand | | 4,665.00 | | Rec'd 3-11-59 \$4,665. |
| ✓ McGlynn | | 3,570.00 | | Rec'd 2-16-59 - \$3,570. |
| ✓ Yaeger | | 3,480.00 | | Rec'd 3-30-59 \$3,480 |
| ✓ Lush | | 3,040.00 | | |
| ✓ Rerut | | 2,745.00 | | Rec'd 3-18-59 \$2,745. |
| ✓ Ramsey | | 2,090.00 | | Rec'd 2-4-59 \$700 Rec'd 3-9-59 1390 2090 |
| ✓ Jacobs | | 1,680.00 | | Cash Rec'd 3-10-59 \$1,680 |
| ✓ Lewis | | 1,535.00 | | Rec'd 2-4-59 \$1,535. |
| ✓ Ratner | | 1,255.00 | | |
| ✓ Rawlings | | 1,035.00 | | Rec'd 2-6-59 \$1,255. Rec'd 3-9-59 \$1,035 |
| ✓ Savage | | 1,020.00 | | Rec'd 2-12-59 \$1,020. |
| ✓ Rives | | 880.00 | | Cash Rec'd 2-5-59 - \$880 |
| ✓ [illegible] | 2,630.00 | 665.00 | | |
| ✓ [illegible] | 1,723.24 (2 years) | 370.00 | \$2,103.24 | |
| ✓ [illegible] | 465.00 | 265.00 | \$730.31 | Rec'd 3-30-59 \$730.31 |

Counsel's Note

Nelson Exhibit A is the same as Complainant's Exhibit K-4 filed with the deposition of W. P. Kennedy and the same as Complainant's Exhibit Orpin #1, filed with the October 12, 1962 report of conference at the Brotherhood offices in Cleveland, Ohio.

949

[fol. 949]

1034

[fol. 950]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S NELSON EXHIBIT "E"

January 9th, 1956

Mr. C. R. Maher, Chief Clerk
Legal Aid Department,
Brotherhood of Railroad Trainmen
Standard Building,
Cleveland, 13, Ohio

Dear Mr. Maher:

Mr. Lush wishes you to place G. A. Clinkenbeard on the payroll as an Investigator for the firm of Davis and Lush.

You will find enclosed check in the sum of \$1,000.00 and we will be pleased to hear from you regarding this matter.

Very truly yours,

DAVIS and LUSH
By

alm
enc.

[fol. 951]

PLAINTIFF'S NELSON EXHIBIT "F"

C O P Y

WPK

July 9, 1951

Mr. Eugene A. Rerat
515 Minnesota Federal Savings & Loan Bldg.
Minneapolis, Minnesota

Dear Mr. Rerat:

Upon the recommendation of the firm of Davis, Yaeger, McGinley & Lush as well as S. C. Lush, manager of the Legal Aid Department, together with information which

has reached me from time to time indicating your great success in handling cases for injured railroad employees under the Federal Employers' Liability Law, I am pleased to appoint you regional counsel for the Brotherhood of Railroad Trainmen in association with Regional Counsel Davis, Yaeger & Lush.

I am advised that the firm of Davis, Yaeger, McGinley & Lush is being reorganized effective July 16, 1951 and will hereafter be known as Davis, Herat, Yaeger & Lush, therefore, your appointment will be effective as of July 16, 1951.

Sincerely yours,

W. P. Kennedy (sig.)
President

cc: Mr. S. C. Lush, Mgr., Legal Aid Dept.
Mr. Tom Davis, Reg. Coun.
Mr. Carl L. Yaeger, Reg. Coun.
Mr. Philip B. Lush, Reg. Coun.

[fol. 952]

COPY

AFW:MM,p

May 23, 1949

Mr. Philip B. Lush
Davis, Michel, Yaeger & McGinley
610 Baker Building
Minneapolis 2, Minnesota

Dear Mr. Lush:

On the recommendation of Tom Davis, effective this date we are pleased to appoint you regional counsel of the Brotherhood of Railroad Trainmen in association with Regional Counsel Davis, Michel, Yaeger and McGinley.

I am enclosing herewith an agreement setting forth the condition of this appointment, and if this agreement meets with your approval please sign one copy and turn it for our files.

Sincerely yours,

President

encl.

Copy to: Mr. W. P. Kennedy, G.S.&T.
Mr. S. C. Lush, Manager,
Legal Aid Dept.
Mr. H. P. Costello, Compt.
Directory.

1038

[fol. 953]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S NELSON EXHIBIT "I"

(See opposite)

32

DAVIS, RERAT, YAEGER & LUSH
REGIONAL COUNCIL
BROTHERHOOD OF RAILROAD TRAINMEN
AND
BROTHERHOOD OF RAILROAD SIGNALMEN
616 BAKER BUILDING
MINNEAPOLIS 2, MINN.

[fol. 953]

I hereby employ **DAVIS, RERAT, YAEGER & LUSH**, Attorneys at Law, of Minneapolis, Minnesota, to represent me in the prosecution and recovery of my claim against the.....
.....**C. R. & Q.**..... Railway Company for personal injuries received by me on the 9 day of July 1952 and I agree to pay them 25 percent of the net amount received or recovered by settlement or suit for their services. OR 50 per cent over \$ 50,000. or which ever amounts to the most to me.

**No Settlement to be Made Without My Consent
and Check to be Made Payable to Me.**

Dated Aug 17 1953 Donald A. Lamm
Chairman

We hereby accept the above claim and cause of action, and agree to prosecute the same to settlement or judgment, on the terms above set forth.

Dated Aug 17 Davis, Rerat, Yaeger & Lush
Attorneys

1039

8-14-37

SETTLEMENT

DONALD D. BAUER vs. CB&Q RAILROAD

| | |
|----------------------------|------------------|
| Amount of Gross settlement | \$107,000.00 |
| Adjusted attorneys fees | <u>25,000.00</u> |
| | \$82,000.00 |
| Less Company advances | <u>1,500.00</u> |
| | \$80,500.00 |
| Less Loans | <u>9,165.00</u> |
| Check to Donald D. Bauer | \$71,335.00 |

Fee:
25% O. H. Expense

25,000.00
6,250.00

18,750.00

Extra Expense:
D. G. Klein

1,000.00

17,750.00

Special Investigation Expense
G. A. Clinkenbeard

2,662.50

15,087.50

[fol. 954]

Signed 8-17-53 47
B.R.L. - 257.00 507.00 50.00

James Donald L.V. 504
504 ~~Donner~~, Lincoln, Neb.

Ref. 59737
A.D.C. 1st Lt.
A.H. Klein

FORM 747-40-2

1952

| | | | | | |
|----|--------|-----------------------------------|---|--------|----|
| 1 | Aug 11 | Deming & Co | | 80.00 | 1 |
| 2 | 1953 | | | | 2 |
| 3 | Aug 14 | D.H. C. Linkenbach | | 30.00 | 3 |
| 4 | 19 | Eugene A. Grant | | 64.80 | 4 |
| 5 | 21 | J.B. Byers | | 22.50 | 5 |
| 6 | 14 | Graniff Airways - C.A.B. & O.B.B. | | 93.16 | 6 |
| 7 | 17 | D.H. C. Linkenbach | | 12.00 | 7 |
| 8 | 27 | C.A. Benson | | 40.00 | 8 |
| 9 | 21 | Graniff Airways - C.A.B. | | 52.36 | 9 |
| 10 | Sept 1 | D.H. C. Linkenbach | | 17.50 | 10 |
| 11 | 2 | Graniff | X | 100.00 | 11 |
| 12 | 1 | C.A. Benson | | 19.35 | 12 |
| 13 | 10 | Ref. Graniff Airways - C.A.B. - | | 31.86 | 13 |
| 14 | 21 | Graniff | X | 400.00 | 14 |
| 15 | 28 | Graniff | X | 150.00 | 15 |
| 16 | 22 | C.A. Benson | | 6.35 | 16 |
| 17 | 22 | D.H. C. Linkenbach | | 15.00 | 17 |
| 18 | Oct 5 | | | 14.75 | 18 |
| 19 | 12 | Shine & Sons - Liquor Store | | 48.59 | 19 |
| 20 | 14 | Sheriff of Nem. Co. | | 3.00 | 20 |
| 21 | 28 | Graniff | X | 150.00 | 21 |
| 22 | | Refund - Sheriff of Nem. Co. | | | 22 |
| 23 | Nov 9 | Ch. of Dist. Ct. | | 3.00 | 23 |
| 24 | 27 | Graniff | X | 150.00 | 24 |
| 25 | Dec 21 | Graniff | X | 150.00 | 25 |
| 26 | 1954 | | | | 26 |
| 27 | Jan 24 | Graniff | X | 150.00 | 27 |
| 28 | Feb 25 | Graniff | X | 150.00 | 28 |
| 29 | Mar 24 | Graniff | X | 150.00 | 29 |
| 30 | | | | | 30 |

Graniff 502.66

329.00

Barnes

1954

Apr. 29 Loan
 May 28 Loan
 June 28 Loan
 July 28 Loan
 Aug. 21 " " " "
 Sept. 20 Brantiff Highway - L. H. Crill
 28 Louis H. Crill - Travel
 30 Loan
 L. H. Crill
 Oct. 7 Emma R. Clarke - Vietnam fee
 8 Lincoln Orthopedic & Rehabilitation Center (exp.)
 28 Loan
 Nov. 10 Eng. E. Varnum - Deposition
 29 Loan
 Dec. 17 Loan
 28 Loan

1955

Jan. 10 Clarence & Benson - attested
 16 " "
 28 Loan
 Feb. 25 Loan
 Mar. 31 Loan
 Apr. 21 " "

Apr. 21 D. G. Chapman, Jr.
 May 23 Loan
 27 Loan
 June 16 Loan
 28 Loan
 July 29 Loan

Exp 176.17
 Exp 177.17
 Exp 381.22

| | | |
|---|---------|----|
| X | 150 - | 1 |
| X | 150 - | 2 |
| X | 150 - | 3 |
| X | 150 - | 4 |
| X | 150 - | 5 |
| | 3240 - | 6 |
| | 2815 - | 7 |
| X | 150 - | 8 |
| | 3910 - | 9 |
| | 5 - | 10 |
| | 100 - | 11 |
| X | 150 - | 12 |
| | 18920 - | 13 |
| X | 150 - | 14 |
| X | 100 - | 15 |
| X | 150 - | 16 |
| | | 17 |
| | 2745 - | 18 |
| | 30 - | 19 |
| X | 150 - | 20 |
| X | 150 - | 21 |
| X | 150 - | 22 |
| X | 150 - | 23 |
| | 301 - | 24 |
| X | 30 - | 25 |
| X | 101 - | 26 |
| X | 101 - | 27 |
| X | 150 - | 28 |
| X | 150 - | 29 |
| | | 30 |

Bauer, Donald D.

[fol. 957]

1043

48

| 747-40-2 | | 1955 | | | | | | |
|----------|---------|--------------------------------|-------------------------|---|-------|---|--|----|
| 1 | Aug 4 | Loan | | X | 50 - | ✓ | | 1 |
| 2 | 31 | Loan | | ✓ | 150 - | ✓ | | 2 |
| 3 | 30 | Loan | | | 150 - | ✓ | | 3 |
| 4 | 30 | D.G. Chapman, Jr. | 4530 ⁰⁰ | ✓ | 2120 | | | 4 |
| 5 | Oct 21 | Loan | | ✓ | 35 - | | | 5 |
| 6 | 31 | Loan | | ✓ | 150 - | | | 6 |
| 7 | Nov 15 | Loan | | ✓ | 75 - | | | 7 |
| 8 | Dec 1 | Loan | | ✓ | 150 - | | | 8 |
| 9 | 31 | Loan | | ✓ | 150 - | | | 9 |
| 10 | 1956 | | | | | | | 10 |
| 11 | Jan 9 | Loan | | ✓ | 225 - | | | 11 |
| 12 | 31 | Loan | | ✓ | 150 - | | | 12 |
| 13 | Mar 1 | Loan | | X | 150 - | | | 13 |
| 14 | 19 | Loan | | X | 100 - | | | 14 |
| 15 | 29 | Loan | | X | 150 - | | | 15 |
| 16 | | D.G. Mc Nurlan - Time | | | 11752 | | | 16 |
| 17 | Apr 27 | Little Nurian - Exp. | | | 11618 | | | 17 |
| 18 | 27 | Loan | | ✓ | 150 - | | | 18 |
| 19 | May 11 | Eva E. Hannon - Description | | | 100 - | | | 19 |
| 20 | 22 | D.G. Mc Nurlan - Exp. | | | 40610 | | | 20 |
| 21 | 23 | Loan | Loan 6315 ⁰⁰ | X | 300 - | | | 21 |
| 22 | | James N. Bell | | | 14245 | | | 22 |
| 23 | 22 | H. Z. Ude, M.D. | 35 ⁰⁰ | | | | | 23 |
| 24 | 29 | D.G. Mc Nurlan - Time | | | 175 - | | | 24 |
| 25 | | Exp. included | | | 11662 | | | 25 |
| 26 | 29 | Donald Heston - "Habitual" fee | | | 10 - | | | 26 |
| 27 | 31 | Loan | | X | 150 - | | | 27 |
| 28 | June 12 | Eugene A. D. Cal | | | 6875 | | | 28 |
| 29 | Aug 11 | L. E. C. Donnell, M.D. | 25 ⁰⁰ | | | | | 29 |
| 30 | | | | | | | | 30 |

Pl 8-15-51

Pl 8-15-51

| No. | Description | Amount | Balance |
|-----|---------------------------------|---------|---------|
| 17 | Loan | 150 - | 1 |
| 18 | CON R. C. - Travel Exp | 54 36 | 2 |
| 27 | CON R. C. - Travel Exp | 34 32 | 3 |
| 31 | Expense - Travel | 84 70 | 4 |
| 7 | Loan | 150 - | 5 |
| 8 | Exp. E. Hansen - Ct Reporter | 225 - | 6 |
| 31 | Loan | 52 50 | 7 |
| 11 | H. A. Mc Nurlan - Exp. | 150 - | 8 |
| | " " " " - Travel | 18 13 6 | 9 |
| 17 | Mayer & Z. Goldner, M.D. | 62 50 | 10 |
| 17 | H. A. Mc Nurlan - Exp. & Travel | 100 - | 11 |
| 6 | H. A. Lutz, M.D. | 91 54 | 12 |
| 6 | Dug. rule, Brown & when | 25 00 | 13 |
| 31 | Loan | 30 00 | 14 |
| 31 | Loan | 150 - | 15 |
| 17 | Orthopedic & Fracture Clinic | 150 - | 16 |
| 21 | Loan | 44 50 | 17 |
| 30 | Loan | 100 - | 18 |
| 14 | Loan | 150 - | 19 |
| 24 | Loan | 95 - | 20 |
| 1 | Loan | 150 - | 21 |
| 1 | Loan | 150 - | 22 |
| 29 | Loan | 150 - | 23 |
| 11 | Orthopedic & Fracture Clinic | 150 - | 24 |
| 18 | H. A. Mc Nurlan - Travel | 32 50 | 25 |
| 18 | " " " " - Expense | 100 - | 26 |
| 1 | Loan | 244 54 | 27 |
| 2 | Mayer & Z. Goldner, M.D. | 150 00 | 28 |
| 13 | Louis H. Ciel - Expense | 55 00 | 29 |
| | | 201 29 | 30 |

Bauer, Donald D vs CBA

[fol. 959]

1045

49

Multiple Columns

Wash. D.C.

747-40

1957

| | | | |
|----|--|----------|----|
| 1 | May 16 Lucile Antropoulos & Robert Carter - Expenses | 200.00 | 1 |
| 2 | June 1 Loan | X 150.00 | 2 |
| 3 | May 31 Eugene G. Kerat - Expenses - allocated | 62.31 | 3 |
| 4 | June 1 Robert J. Hoffert - Bauer Signage Cost | 10.35 | 4 |
| 5 | " 28 Robert J. Hoffert - Bauer Signage - Expenses | 229.86 | 5 |
| 6 | " 25 Loan | X 350.00 | 6 |
| 7 | July 31 Loan | X 150.00 | 7 |
| 8 | July 13 Eva E. Hansen, Ct. Reporter - Expenses | 98.65 | 8 |
| 9 | " 19 Sheridan Hotel | 34.73 | 9 |
| 10 | " 19 Edward G. Emery, M.D. - Expenses | 3.00 | 10 |
| 11 | Sgt 5 Dahme Photo Print Company | 11.80 | 11 |
| 12 | " 6 Donald Bauer - Expenses to Impl | 45.29 | 12 |
| 13 | " 6 Eakerat - Expenses | 168.40 | 13 |
| 14 | | | 14 |
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"OVER"

8-14-57 Amount of Gross Settlement
Adjusted attorneys fees
Less Company advances
Less Loans
Check to Donald D. Bauer

\$107,000.00
25,000.00
82,000.00
1,500.00
80,500.00
9,165.00
\$71,335.00

Fee:
25% C.H. Expense

25,000.00
6,250.00
18,750.00

Extra Expense:
W. J. Klein

1,000.00
17,750.00

Special Invest. Expense
Y. A. Chickenbeard

2,662.50
\$15,087.50

JRB
#25,000.00
#750.00
#25,750.00

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IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA
PLAINTIFF'S NELSON EXHIBIT "J"

[fol. 961]

1047

D. G. C. 15
E. R. J. - 25-7-2
5/22/53 M

747 40-2

1955

| | | | | | |
|----|----------|--------------------------------------|------------|-------------|----|
| 1 | May 25 | Braniff Airlines - J. F. Barnes, Jr. | | 5286 | 1 |
| 2 | | J. A. Arnold - exp. | | 5682 | 2 |
| 3 | 24 | John J. Barnes, Jr. | | 9350 | 3 |
| 4 | 23 | E. A. C. - incident | | 26 | 4 |
| 5 | 31 | J. A. Arnold - exp. | | 14429 | 5 |
| 6 | June 15 | Sheriff of Freeborn Co. | Exp. - 375 | 180 | 6 |
| 7 | Oct. 2 | Loan | | 400.00 | 7 |
| 8 | 24 | Television Rental Co. | | 7530 | 8 |
| 9 | Nov. 30 | Loan | | 600 | 9 |
| 10 | | Frank L. Brady | | 495 | 10 |
| 11 | Dec. 13 | D. G. Clarkland | | 4050 | 11 |
| 12 | 12 | Hotel Sheraton - allocated | | 2880 | 12 |
| 13 | | E. A. Reed | | 7468 | 13 |
| 14 | 27 | Frank L. Brady | | 10113 | 14 |
| 15 | 24 | Dodger Photo Print Co. | | 1290 | 15 |
| 16 | 12/26/57 | Thru recovery | 175,000.00 | 278 | 16 |
| 17 | | Sickness benefit | 737.56 | | 17 |
| 18 | | Voucher | 174,262.44 | | 18 |
| 19 | | Adjusted atty's fees | 42,688.90 | | 19 |
| 20 | | | 131,573.54 | Thru fee | 20 |
| 21 | | Loan | 1,061.10 | 257.00 Exp. | 21 |
| 22 | | | | 10,822.24 | 22 |
| 23 | | Ch. to Leo E. J. J. | 130,514.44 | 32,466.68 | 23 |
| 24 | | | | | 24 |
| 25 | | | | | 25 |
| 26 | | | | | 26 |
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[fol. 961]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S NELSON EXHIBIT "J"

[fol. 962]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S NELSON EXHIBIT "K"

IN THE SUPREME COURT OF THE STATE
OF NEBRASKA

Original No. 34257

THE STATE OF NEBRASKA, ex rel. Clarence S. Beck,
Attorney General, Plaintiff,

v.

PHILIP B. LUSH, et al., Defendants.

Transcript of proceedings before Hon. Paul H. Beck,
Referee, at Lincoln, Nebraska, commencing on June 16,
1958.

Volume 1

Testimony of Marco Verbon

[fol. 963] MARCO VERBON, after being duly sworn, testified
as follows:

Direct examination.

By Mr. Nelson:

[fol. 964] Q. Will you state your name, please?

A. Marco Verbon.

[fol. 965] Q. How long did you work for the Northern
Pacific?

A. Great Northern.

Q. Oh, Great Northern. Pardon me.

A. I worked from '45 until July 6 of 1948.

Q. And what caused you to terminate that employment?

A. I got injured on July 6, 1948. I got knocked off a refrigerator car.

Q. Are you acquainted with Mr. Philip B. Lush, a defendant in this action?

A. Yes; I am.

Q. Are you acquainted with the members of the law firm of Davis, Rerat, Yaeger & Lush?

A. Yes; I am.

Q. And do you know the individual members personally?

A. Yes; I do.

Q. Did any of the members of that firm or that firm represent you as counsel at any time?

A. What time do you mean, sir?

Q. Well, at any time now.

A. Mr. Rerat did.

Q. And what was the nature of his representation?

A. He tried my injury case that I—I got injured on July 6th.

[fol. 966] Q. How did you happen to employ Mr. Rerat?

A. He employed me.

[fol. 967] Q. And I believe you answered my question, or perhaps I didn't ask you. Who was this Mr. Larsen that contacted you?

A. He contacted me by telephone. He was a bird dog for George Sullivan.

Q. Now, what do you mean by bird dog?

A. Well, they go around—any man that's injured, they go around and they take him clippings out of the newspapers and they build them up so that the man that is doing the soliciting, it is all built up for him, he comes in and then he tries to sign them.

[fol. 968] Q. All right, did anyone else then representing this law firm contact you?

A. The next—yes, a man by the name of George Sullivan came over to my home on 1295 Randolph, St. Paul.

Q. Did you know this Mr. Sullivan?

A. That's the first time I saw him.

Q. What was the purpose of his visit?

A. Well, he come over there telling me about back injuries, how bad they are, and how these people that settle with the companies, and then when they go to work they can't work and the companies fire them, and all that. And I says, "Well, I want to go to work, I like railroading and I want to go to work."

But he said, "Now, listen," he said, "do you have much dealings with the railroad companies?"

I says, "No, only that I'm working for them, that's all."

He says, "You know, you've got a pretty bad back." Then he asked me where I was injured and how it bothers me, and I told him. "Well," he says, "I'll tell you what I'll do: I'll make an appointment for you with Dr. O'Donnell of Minneapolis, it won't cost you anything. You go over and let him examine you."

[fol. 969] Q. Were you then later contacted by anyone representing the law firm that you spoke of?

A. Well, George Sullivan contacted me later, and later, in October, latter part of October—around November, I met Mr. Gene Rerat.

Q. Now, did you later learn who this George Sullivan was?

A. Yes; I did.

Q. And who was he?

A. George Rerat.

Q. And who was George Rerat?

A. Gene Rerat's brother.

Q. And who is Gene Rerat?

A. He is the attorney.

[fol. 970] Q. A member of the firm that you referred to?

A. Yes.

Q. Did Mr. Rerat or the law firm secure a settlement for you with reference to your injuries?

A. Well, we had a trial, went to court.

[fol. 971] Q. All right, and you secured judgment?

A. What was that?

Q. You secured a judgment then?

A. Oh, thirty-five thousand. That's right, sir.

Q. Was that paid?

A. Well, in June Mr. Rerat called me up and told me that he was up talking to the head of the claim department for the Great Northern and, he said, "They're willing to pay twenty-seven-five but," he says, "of course you can't go back working on the railroad."

I said, "Well, why can't I?"

"Well," he says, "you know, twenty-seven-five—" and going into some business and all that, so I talked it over with my wife and she says, "Well, you might as well go ahead and take it." So the same day a man by the name of Mr. Brady came over, took me down to the car in front—not the same day—wait awhile—yes—Mr. Rerat talked to me in the morning and Brady came over in the afternoon, went down to the—Tom O'Connor, that was the attorney's name for the Great Northern, and they had the check all made out, and it was \$27,500. Of course, I signed my resignation also.

[fol. 972] Q. All right, after this settlement had been made when was your next contact with Mr. Rerat?

A. Well, the same day as they gave me my check, I think it was \$16,300, somewhere in there, after he got the check he went out in the library and he says, "Marc, you are going to work with us. You are going to make more money than you ever earned on the railroad."

[fol. 973] Q. All right now, will you tell us what arrangements you made with Mr. George Sullivan?

[fol. 974] A. He says, "Marc," he said, "you are going to work for us, Gene just got through telling me. We are going

to give you \$200 a case for every case that I sign. We will pay that cash the minute I sign it. You go over, talk to a fellow. When I sign it we will give you cash right off the bat."

Q. Now, what cases was he talking about?

A. Railroad injury cases.

Q. Did you go to work then?

A. Yes; I worked—went right to work.

Q. What was the nature of the work that you did?

A. Well, they had the verdict—they had the newspaper clipping of the verdict that I received in my case. I was carrying that in my pocket to show these men the big verdict that I received. And my work was to go up, tell them fellows what a good man Mr. Rerat was, what a good man Mr. Taugtes was, what good lawyers they were. And then if the man would agree with me that he wanted to talk to them, I would get on the telephone, I would call George Sullivan.

[fol. 975] Q. All right, how long did you continue to work then for Mr. Rerat?

A. Until August of '51.

Q. And what was the work that you were doing during that entire period?

[fol. 976] Q. From the time you started that you told us about until August of 1951?

A. I was bird-dogging all the time.

Q. And that meant you were doing what?

A. Going out and talking with these people that were injured and tried to build them up so that I would call George and he would come over and sign them.

Q. What were you paid for your services?

A. Well, I was doing such a good job that about three weeks later or so Mr. George Sullivan come over and said to me, he says, "Marc, we're going to pay you \$300 a case now," and he says, "I talked to my brother Gene, and he said I might as well tell you that I am his brother."

Q. Prior to that time you had received \$200 a case?

Q. Then in August of 1951 did you make a change in your employment?

A. Yes, sir; I did.

Q. And what was that change?

[fol. 977] A. I got a call on the telephone from Mr. Rerat. I was painting home. And he says, "Marc, I am now regional counsel for the Brotherhood of Railroad Trainmen. I want you to come over and talk to me. I'm going to take you with me."

The Witness: It was Mr. Eugene Rerat that called me up on the telephone.

By Mr. Nelson:

Q. And he was the attorney?

A. That's right, sir.

Q. Did you know the name of the firm of which Gene Rerat was a member?

A. Davis, Rerat, Yaeger & Lush.

Q. Where was their office located?

A. 610 Baker Building, Minneapolis.

[fol. 978] Q. And will you just tell us what he told you would be your duties?

A. Well, Mr. Lush, when explaining my duties he told me, he says, "Now, Verbon," he says, "there's one thing I want you to understand, that you lay off these non-brotherhood cases." He says, "We don't want to get mixed up in any of them non-craft."

And I says, "Okay." Then I went out, and Mr. Rerat called me in his office. I told him what Mr. Lush says. He says, "Well, Marc, you just go out for the office. Don't pay any attention to that, just go out and get the business."

Q. Now, at that time were you a member of the Brotherhood of Railroad Trainmen?

A. Not yet; no.

[fol. 979] Q. Let me ask you this. How long did you continue in the employ of the firm?

A. Of Davis, Rerat, Yaeger & Lush?

Q. Yes.

A. From August of 1951 until December—the last of December of 1955.

Q. And in the last of December of '55 what took place?

A. The partnership broke up.

Q. And were there some new firms formed at that time?

A. Yes. Mr. Kennedy assigned Mr. Rerat to a territory, Mr. Yaeger to a territory, and Mr. Lush to a territory.

Q. And then can you tell me what firms were formed at that time?

A. Well, Mr. Rerat was—had his own firm.

Q. And what was the name of that firm?

A. Well, what I mean by that is they had their name on the door. It was "Eugene Rerat" and "Brotherhood of Railroad Trainmen."

[fol. 980] Q. I see. And can you state whether at that time Mr. Lush became associated with a different firm?

A. Yes; he has his own firm.

Q. And what was the name of that firm?

A. Lush, Crill & Kennedy.

Q. Do you recall whether that firm wasn't Davis and Lush?

A. Davis, Lush, Crill, and Kennedy. You are right.

Q. During your employment from August of 1951 what title, if any, were you given?

A. Regional investigator.

Q. Did you have a calling card that you carried with you [fol. 981] during the course of your employment?

A. Yes, sir.

Q. Going back now first to August of 1951, were there other men designated as regional investigators that were working for the law firm?

A. Yes; there was.

Q. Can you give us the names of those persons?

A. Pat Merooney, he was from Kansas City; Robert Calkins, he was from Illinois, Freeport, Illinois; Gail Clinkenberg, he was from Council Bluffs, Iowa; George Rerat, he was from Minneapolis; Ike Byers, he was from Minneapolis; and myself.

Q. Did you mention a Glenn McNurlin?

A. Well, he—he was what we called an investigator.

[fol. 982] Q. These other men that you mentioned, Pat Merooney, Robert Calkins, Gail Clinkenbeard, and Ike Byers, can you state whether or not they were doing the same type of work as you were doing?

A. Yes; they were.

[fol. 983] By Mr. Nelson:

Q. Mr. Verbon, I am asking you now about this particular meeting in the spring of 1952.

A. This particular meeting, we were in there and Mr. Rerat was the chairman of the meeting, and we would discuss our business, contracts, protection of the territory, and we wanted to be protected on the non-brotherhood as well as we were on the Brotherhood of Railroad Trainmen territories.

Q. All right now, let me ask you to explain what you mean when you say protection of territory.

A. Well, we were protected as far as the non—as far as the Brotherhood of Railroad Trainmen was concerned, because if any one of the investigators went into our territory and they signed up a Brotherhood of Railroad Trainmen case—for instance, if he went into mine I would get the commission on it, and if I went into his and signed it up he would get the commission on it.

[fol. 984] Then of course Mr. Rerat would also discuss these and say, "Well, hoys, we've got to get more business. We have to dig down in our jeans to keep this office going."

[fol. 985] Q. Mr. Verbon, do you know whether all of these so-called regional investigators operated in the same manner that you did in your work?

A. Yes.

[fol. 986] Q. Now, you have been mentioning George Rerat here with reference to these matters, but you didn't name him as one of the so-called regional investigators. Was he a regional investigator?

A. Oh, yes.

[fol. 987] Q. When you got out in the field, will you tell us now the nature of your work?

A. Well, the nature of our work was to go out and try to sign up these injury cases of these railroad men's.

Q. All right, was the work that you were doing similar to the work that all these other so-called regional investigators were doing?

A. That's right.

Q. Would you be furnished any leads on people that you [fol. 988] were to contact?

A. Yes. We would get newspaper clippings, and they would come from the Western Clipping Bureau. Of course, if he was a Brotherhood man the Grand Lodge in Cleveland would send us a letter notifying us that man that was injured in our territory. And we would carry photostat copies of the checks that we—where they had—

[fol. 989] By Mr. Nelson:

Q. Mr. Verbon, I note that the form of contract, Exhibit No. 8, provides for a fee of 33-1/3 per cent of the net amount received or recovered by settlement or suit, and that Exhibit No. 25 provides for a fee of only 25 per cent of such amount. Can you explain the difference between those two?

A. Well, the 25 per cent on Exhibit 25 is Brotherhood of [fol. 990] Railroad Trainmen, if he was injured he gets this contract, and Exhibit No. 8, 33-1/3 per cent, would be a non-Brotherhood of Railroad Trainmen; that's what—they would be—his percentage, he would have to pay 33-1/3.

Q. There was a higher fee for a non-brotherhood man—

A. Yes, sir.

Q. (continuing): than for a member of the brotherhood?

A. Yes, sir.

Q. Was that the standard fee that was provided for in all these cases?

A. Yes, sir.

Q. Mr. Verbon, in contacting now a party who had secured an injury, will you state just how that was done?

A. Well, it was our job to go out there to talk to the injured person. Of course, we had an investigator's card. If he was a brotherhood man we would show him that; that was our way to get in—to get acquainted.

Q. Are you referring to a card similar to Exhibit No. 10?

A. No. We had a regular card signed by W. P. Kennedy.

Q. Wait a minute, now. You have made reference to W. P. Kennedy before. Will you just tell us who W. P. Kennedy is?

A. He is the president of the Brotherhood of Railroad Trainmen.

Q. Where does he live?

[fol. 991] A. He lives in Minneapolis.

Q. And you would carry a Brotherhood card?

A. Yes, sir.

Q. Were you a member of the Brotherhood of Railroad Trainmen?

A. Yes. And in '52 or '53 I joined the Brotherhood again.

Q. What work were you doing in '52 when you rejoined the Brotherhood?

A. Out getting these cases.

[fol. 992] Q. All right now, can you just tell us the general procedure that you followed when you got information as to some person who had been injured and had a claim against the railroad?

[fol. 993] A. Well, when I would get a call or be notified I would get in contact with the runner, notifying him by telephone from Minneapolis if he didn't know anything about it, or tell him if he would be in that town or somewhere near to it, if the man was in a hospital to go out and contact this man, and "I will be out either tomorrow or the next day." I would come out—he would already be contacted—I would talk to this fellow, and then I would try to get him to sign a contract. And if I was lucky in getting the contract signed, well then I would have a questionnaire that I would ask him questions about.

Q. Now, talking about a contract, are you referring to contracts on forms similar to exhibits 8 and 25?

A. That is right.

[fol. 994] Q. Now, is this the regular and customary manner in which these matters were handled?

A. Yes, sir.

[fol. 995] Q. I believe you testified before noon that you would frequently receive information as to some injured [fol. 996] employee through a bird dog?

A. Yes.

Q. Now, will you state who these bird dogs were?

A. Well, they were either chairmen or secretaries of the lodges of the Brotherhood of Railroad Trainmen. Our instructions were to always use them on Brotherhood cases.

Q. Were ever any members of the Brotherhood who were not either chairman or secretary used for that purpose?

A. If he knew the party that was injured, a good friend of his, yes, we would use him.

Q. And what do you mean by that, "we would use him?"

A. Well, for instance now a fellow was injured and the secretary or the chairman couldn't do anything with him or give us any help, then we would look around and find out who is a good friend of his, and then we would use him.

Q. And just what would you require this bird dog to do?

A. Well, to give Davis, Rerat, Yaeger & Lush a big buildup. He could always do that.

Q. Would you ever have them take you to see the person?

A. Have who take me?

Q. Have the bird dog take you to the person—

A. Oh, yes; yes.

Q. (continuing): and introduce you?

A. Yes.

[fol. 997] Q. Now, in securing the signature on the contracts similar to exhibits 8 and 25, what else would you tell the injured employee except showing them copies of these large settlements?

A. Well, a lot of the men that were injured that we would contact will say, "Well, if I turn it over to the lawyers in Minneapolis how am I going to live?"

"Well," I would say, "we'll get a loan for you. How much do you need to get by on?" Well, of course some of them would just get by on the expenses that they actually needed, and others would want a little more. So then I would—if I signed the contract I would call up the office, Davis, Rerat, Yaeger & Lush, give them the name of the party I signed up, where he lives and tell them that "That man's got to have a check immediately so that he can live." So then they would send a check to him, and he would get his checks regular either twice a month or either once a month, however he wanted it. We would tell him he would get it the same as he would get it on the railroad, and he would get that until it was settled, and then of course the loans were deducted off the settlement.

Q. And was that a general practice, to do that?

A. That's right.

Q. And was that the general practice with all of you [fol. 998] regional investigators?

A. That's right, sir.

[fol. 999] Q. All right, let me ask you, how frequently would this money be advanced to these workmen?

A. I would say it was done in about 88 per cent or 90 per cent of them.

[fol. 1000] Q. How were you compensated for the work that you did during this period of time?

A. Are you talking about from August of '51?

Q. Yes.

A. Commission.

Q. And what was the basis of your commission?

A. Well, if it was a non-brotherhood case it would be 15 per cent; if it was a brotherhood case it would be 10 per cent; and I had to pay 25 per cent for overhead.

Q. Now, when you say 10 per cent, 10 per cent of what?

A. Of the settlement, gross settlement—or the net settlement.

[fol. 1001] Q. Well, would that be 10 per cent of the attorney's fee?

A. That's right.

Q. And then what was this statement about you had to pay 25 per cent for overhead?

A. Well; they would slap down "25 per cent overhead," which I had to pay. They would deduct that. When they slapped the overhead, if it was a thousand dollars, \$3,000, I had to pay 25 per cent for the expenses.

Q. Did you draw any salary of any kind?

A. Not until December of '55.

Q. And what salary did you draw after that?

A. \$350 a month.

Q. Where did you receive that payment?

A. I received it from the Brotherhood of Railroad Trainmen.

Q. Now, was that paid you in addition to the 10 per cent or 15 per cent on non-brotherhood cases?

A. No. That would be deducted off of my commission.

[fol. 1002] Q. I will now hand you what has been identified as Exhibit No. 32 and ask you if that is a photostatic copy of a carbon copy of a letter that you received?

A. This is a copy of the letter that I received from Bob Maher—or C. R. Maher.

[fol. 1003] By Mr. Nelson:

Q. After the date of this letter, Mr. Verbon, you did receive \$350 per month salary?

A. Yes, sir.

Q. And how did you receive that?

A. I received it from the Brotherhood of Railroad Trainmen.

[fol. 1004] Referring to Exhibit 33, Mr. Verbon, which apparently relates to a case of James W. McLeod versus the Great Northern Railway Company, is that a case that you contracted?

A. That's the case that Mr. Byers signed, and it is—I [fol. 1005] got the commission on it. It was my territory.

Q. Now, did you get the commission on all cases in your territory regardless of whether or not you personally signed those?

A. If they were Brotherhood, yes; if they non-Brotherhood, no, unless I contacted them first.

Q. Now, was this a Brotherhood case here?

A. Yes.

Q. All right, referring to that, now, can you state the amount of settlement that was secured in that case?

A. \$27,250.

Q. Now, was that a case that was tried and judgment secured, or was that a settlement?

A. Settlement out of court.

Q. Now, does your exhibit show there whether or not there had been any advances to the client?

A. No; there hasn't in this one.

Q. I notice an item here of \$673.50 which refers to sickness benefits. Can you state what that is?

A. Yes. You see, he would have to—the client would have to keep up his railroad retirement, then they would deduct that from the settlement to take up the railroad retirement.

Q. Any benefits that he received during his disability from the railroad retirement would be deducted from the [fol. 1006] payment that was made in settlement; is that correct?

A. That's right.

Q. And this, I believe, shows an attorneys' fee of \$6,812.50?

A. Yes.

Q. That's correct, and the check then that went to the client was \$19,764?

A. That's right.

Q. Then I note later on there is typed in "Fee," then "25% overhead expense" of \$1,703.12. Will you explain what that represents?

A. The 25 per cent overhead is what it cost them, what they spent on this particular case.

Q. Now, was that a standard charge that was made for overhead?

A. To us investigators, yes. Well, you mean this same figure?

Q. Well, I mean was it always 25 per cent?

A. Twenty-five; yes.

Q. And that was 25 per cent of the total fee that was deducted?

A. Yes.

Q. Was that true of all cases whether they were Brotherhood or non-Brotherhood cases?

A. Well, the Brotherhood—non-Brotherhood as a rule would be—the overhead expense was the same; yes.

[fol. 1007] Q. The same percentage?

A. Yes.

Q. All right, that's what I meant. Then under that there is shown "Extra expense, H. B. Pflaum, \$150." Can you state who Mr. Pflaum was?

A. He is—he was the bird dog that contacted this McLeod, and after the case was settled and that it was up to me to recommend the bird dog fee, and I recommended \$150 there.

Q. Now, did that bird dog fee vary in individual cases?

A. Oh, yes; the bigger the—

Q. How did you determine the amount?

A. Well, if the case was a big case then he would get more; if it was a smaller case he would get less. We didn't determine—I mean, there was no figure or anything, we just—

Q. That was not determined on a percentage basis?

A. No, no, no; it was not.

Q. And that amount was deducted from the amount of \$5,109.38?

A. That's right.

Q. Which was the attorneys' fee less 25 per cent overhead?

A. That's right.

Q. Which left, as I take it, \$4,959.38?

A. That's right.

Q. And then I believe the settlement shows "10% M. M. [fol. 1008] Verbon \$495.94?"

A. That's the commission I received.

Q. How would you receive that commission?

A. A check from Davis, Rerat, Yaeger & Lush firm.

Q. Now, was that a case that was settled before you started drawing the \$350 a month salary?

A. Yes.

Q. Were all of your cases handled in that manner then where at the time of settlement you received the full amount of your commission?

A. That's right.

Q. Where did that case originate?

A. Grand Forks, North Dakota.

Q. By the way, Mr. Verbon; what territory were you working?

A. I had North Dakota, South Dakota, Montana until '53, and then I got Washington and Oregon in '53.

Q. In addition to the other states?

A. Yes.

[fol. 1009]

By Mr. Nelson:

Q. Mr. Verbon, I hand you now Exhibit 35, and I wish [fol. 1110] you would take those various items and explain what they represent. First tell us who the client was.

A. Walter Johnson versus Northern Pacific. He is from Missoula, Montana.

Q. This was a case you contracted?

A. Yes. "Amount of gross settlement, 19,900."

Q. Was that a judgment or settlement contracted—

A. Settlement.

Q. (continuing): prior to judgment?

A. Yes. "Sickness benefits, \$268.71. Voucher, \$19,631.29."

Q. That sick benefit, that was from the railroad retirement, was it?

A. That's right. That's what they had to pay back, see?

Q. I see.

A. And the voucher was \$19,631.29. "Attorneys' fees, 50 per cent of amount recovered in excess of \$16,000 or 60 per cent of \$3,900"—there is another case that I took anything over and above what he was offered. He was offered \$16,000. "Loans, \$1,200."

Q. Who made those loans?

A. Davis, Rerat, Yaeger & Lush. "Check to Mr. Johnson, \$16,481.29." "25 per cent overhead expense, \$487.50. Extra expense, W. E. Buckley, \$100."

Q. Who was W. E. Buckley?

[fol. 1011] A. He was secretary of the lodge in Missoula.

Q. How did he happen to be paid the \$100?

A. He went over to the house with me to talk with Mr. Johnson.

Q. Is that prior to the time that you had secured the contract?

A. It was at the time I secured it.

Q. I see.

A. And "10 per cent to M. M. Verbon."

Q. That amounted to how much?

A. \$136.25.

Q. Now will you explain the handwriting that appears thereon, the figures with reference thereto?

A. "M. M. Verbon, advance to Cleveland, \$350." That's when they started putting me on salary, in December of 1955. And my commission on that was \$136.25, so they deducted that, which left a balance of \$213.75 that I still owed Davis, Rerat, Yaeger & Lush.

Q. And then I will hand you Exhibit No. 36 and ask you if that is a settlement sheet that followed immediately the one shown by Exhibit 35.

A. Yes.

Q. All right, now will you state where that case originated?

A. At Deer Lodge, Montana. This was a death case.

Q. Was that a settlement?

[fol. 1012] A. Yes.

Q. What was the amount?

A. \$30,000.

Q. Now, there is shown "Adjusted attorneys' fees." What is meant by that?

A. Well, they—on that case there she was offered, if I remember correctly, \$18,000.

Q. And how much is shown as adjusted attorneys' fees?

A. \$3,250.

Q. Do you know the basis on which that was determined?

A. Don Chapman settled that—well, I suppose her husband was a Brotherhood of Railroad Trainmen man, or he belonged to the Brotherhood of Railroad Trainmen, he was a conductor, so what agreement Don Chapman made there with her I couldn't say.

Q. Well, you did not secure the contract on this case?

A. Yes; I did. I took the contract, anything over and above \$18,000, we would take 50 per cent. But then when Chapman settled it, I don't know how he settled it, only what adjusted attorneys' fees that is found here. "Check to Nellie M. Jennings, \$26,750. Fee, \$3,250. 25 per cent overhead expense, \$812.50. Extra expense, C. E. Adams, \$150."

Q. And who was Mr. Adams?

A. He was the chairman—or the griever of the Three [fol. 1013] Forks lodge in Montana.

Q. You used the term griever.

A. Well, he was the griever for the lodge.

Q. Now, what is a griever?

A. Well, any complaints that these railroad men had that belonged to that lodge, it is up to him to go over and try to settle it with the company.

Q. What part did he take in securing this contract?

A. He recommended the Davis, Rerat, Yaeger & Lush firm.

Q. Did he take you out to see the widow?

A. No. You see, Deer Lodge and Three Forks is probably a hundred miles apart. But he had wrote a letter to this widow in regards to Davis, Rerat, Yaeger & Lush. And "10 per cent, M. M. Verbon," which is \$228.75. And the total fee they received \$2,058.75. Then the commission I earned was \$228.75. "Balance due firm on advances to Cleveland, \$213.75," and I received a check for \$15.

Q. This "balance due firm on advances to Cleveland" of \$213.75, does that refer to the figure that is shown on Exhibit 35?

A. Yes, sir.

Q. So in settling these two cases is it correct then that you received the \$350 monthly payments plus a check for \$15?

A. That is correct.

Q. And who paid you the \$15?

[fol. 1014] A. Davis, Rerat, Yaeger & Lush.

Q. Now, can you state here on this "balance due firm on advances to Cleveland," whether the \$350 was advanced to Cleveland by the law firm?

A. Yes; it was.

Q. Mr. Verbon, do you know whether the other regional investigators, and particularly Gail A. Clinkenbeard, received settlement sheets on their cases similar to exhibits 33 and 34?

A. Yes. It was worked the same way, only they were on the Cleveland payroll long before I was on there.

[fol. 1015] Q. Do you know it to be a fact that all of you were paid on the same basis?

A. That's right.

Q. Now, with reference to your statement here that it was only in December of 1955 that the amount of your salary check was deducted, would you please explain how it was handled after that time?

A. After that time the partnership broke up and in Jan-
[fol. 1016] uary, '56 I started working for Rerat, and of course it was handled a little different in 1956.

Q. And how was it handled?

A. The percentage and everything was all the same, only we wouldn't get any of these statements from the office, from Rerat's office, and we would be paid by the Interstate Investigation Bureau..

Q. And what was the Interstate Investigation Bureau?

A. That I don't know. All I know it was in the office in 354 Plymouth Building.

Q. Were you ever in the office?

A. Once.

Q. Now, what kind of an office was it?

A. It was just a small office there upstairs in the Plymouth Building.

Q. How many rooms?

A. One.

Q. And who occupied that office?

A. Nobody. George Rerat and I went up to get the mail, he gets his mail there, and that's the only time I was in there, was that one time.

Q. And George Rerat had a key, did he?

A. Yes.

Q. And you got your pay from the Interstate Investigation Bureau?

[fol. 1017] A. That's right.

Q. Who signed the checks?

A. Well, Miss Colby signed the checks, but there was G. Welch's name on them.

Q. And who is G. Welch?

A. She was the sister of Mr. Rerat's.

[fol. 1018]

By Mr. Nelson:

Q. Mr. Verbon, I believe you mentioned the fact that you were furnished with a card issued to you by the Brotherhood of Railroad Trainmen that you used in identifying yourself to the persons that you called upon. Is that correct?

A. Yes; that's right.

[fol. 1019] Q. One thing I would like to clear up here, Mr. Verbon, and that was your testimony on this point. After December of 1955 did you receive monthly checks from the brotherhood?

A. Starting January, '56; yes.

Q. And how long did you continue to draw those?

A. Until October 30th—October—the last part of October of '57.

Q. Did you receive commissions in addition to that salary?

A. From this Interstate Investigation Bureau; yes.

Q. And when those commission checks were paid was the amount of salary that you had received from the brotherhood deducted from the commission?

[fol. 1020] A. Yes.

Q. And do you know whether that was the general practice with reference to all of the investigators?

Mr. Barney: Answer yes or no.

A. As far as I know, yes.

[fol. 1021]

Cross examination.

By Mr. Barney:

Q. Mr. Verbon, in your testimony on direct I gained the impression that all of the information and the leads toward injured persons whose cases you say you were to solicit came from the firm of Davis, Rerat, Yaeger & Lush. Is that the impression you wish to leave with this court?

A. Just the non-brotherhood. The brotherhood came from the Grand Lodge.

Q. Oh, just the non-brotherhood matters?

A. That's right.

Q. As a matter of fact, brotherhood matters did come from the Grand Lodge?

[fol. 1022]. A. That is correct.

Q. The legal aid department at Cleveland?

A. Well, I don't know about the legal aid. The secretary of the legal aid in Cleveland, that's right, Bob Maher.

Q. He is the secretary?

A. He is the secretary in Cleveland.

Q. Of the legal aid department of the Grand Lodge which is located in Cleveland?

A. That is correct.

Q. As a matter of fact, that report almost uniformly of the matter of the injury of a brother in the Brotherhood of Railroad Trainmen came to you and at the same time went to the firm?

A. That is correct.

Q. And almost uniformly that was the first notice that you had of that injury?

A. Not always, but most of the time.

Q. But, as I say, almost uniformly—

A. That's right; that's right.

Q. (continuing): that was the first notice you had?

A. That's right.

Q. As a matter of fact, I think you have stated that on one other occasion in Montana that "Once in a great while we would beat the legal aid to the knowledge?"

[fol. 1023] Q. As a matter of fact, the majority of cases that you worked on were brotherhood cases; isn't that true?

A. Let's put it at 50/50, and I think I will be right.

[fol. 1024] Q. Now, in Exhibit No. 33, which is in the matter of McCleod versus Great Northern Railway Company, I think you testified that you made no investigation on that case?

A. No. I didn't sign it, Byers did.

Q. I ask you whether or not you made any investigation on that case.

A. No; no, I never investigated a case in my life.

Q. You never investigated a case?

A. No; just signed it up.

Q. And Exhibit 34, in the matter of Wallner versus See Line, in which there was a gross recovery of \$90,000, did you make any investigation on that case?

A. No; just signed them all up, that's all.

Q. And in Exhibit No. 35, in which there was a gross settlement of \$19,900, I take it you made no investigation of that case?

A. No. I didn't investigate any case at all. My orders were to sign them up.

Q. The same thing would be true, then, of Exhibit 26 in the Jennings estate, in which there was a settlement of [fol. 1025] \$30,000?

A. That's right.

Q. And in the Lyman H. Fitzgerald versus Northern Pacific, in which there was a gross recovery of \$9,000; is that right?

A. That's right.

Q. Now, as I understand, you also testified that these gentlemen whose names are shown on here, to start back with the McCleod matter, Mr. H. B. Pflaum and the other named gentlemen shown on exhibit numbers 37 and 36 and 35 and 34, they made no investigations, they were just bird dogs?

A. That's right.

Q. And I think you defined a bird dog as a fellow that gave you a good word for the—

A. Put in a good word for the firm Davis, Rerat, Yaeger & Lush; yes.

Q. Now, are you, Mr. Verbon, telling this court that these kind of recoveries were made without investigation?

A. By me, yes. I never made investigations. All I was there—all I done, if I got the guy to sign, was to use one of these (indicating) after he signed the contract.

Q. And these men that are shown as extra expense, they made no investigation?

A. No; they were bird dogs.

[fol. 1026] Q. They may have been lodge chairmen?

A. Yes.

Q. Or lodge secretaries?

A. Yes.

Q. But they made no investigation?

A. That's right.

Q. Who made the investigation of these cases?

A. Either Glenn McNurlin or Clarence Benson or George Spencer out in Seattle. And, let's see, who else have they got. They were the investigators. They would write them—oh, yes, they were the real investigators. When I signed it, if it was a big case they would go out and investigate and make—take pictures of the place and get witnesses and all that. They were the ones that done that, not me.

Q. Were you familiar with the handling of a case after you had once, as you say, signed it?

A. After I once turned that contract in the office I never heard any more about it until it was settled, and then they gave me my commission and that was it.

Q. So, as far as you know, in cases that went to trial there may have been services rendered by the lodge chairman in that situation, or the lodge secretary?

A. Not in my territory; no.

Q. Do you know whether or not it is an instruction and a [fol. 1027] practice to use lodge officers in investigation of mishaps on the railway?

A. Instructions that I got is to use the lodge officers to help me to get business, sign contracts. That was my instructions.

[fol. 1028] Redirect examination.

By Mr. Nelson:

"Well," I said, "Andy, how can I do that?" I says, "I never investigated a case for the Brotherhood. How can I do that?"

"Well," he says, "if you don't do it you don't get any money."

[fol. 1029]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S NELSON EXHIBIT "L"

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES

No. 704,981

STATE OF NEBRASKA, ex rel BECK,

Plaintiff,

vs.

PHILIP B. LUSH, et al.,

Defendants.

Original No. 34257

STATE OF NEBRASKA, ex rel CLARENCE S. BECK,
Attorney General,

Plaintiff,

vs.

PHILIP B. LUSH, et al.,

Defendants.

DEPOSITION OF MARJORIE MATSON, a witness herein, taken on behalf of the Plaintiffs, at 10:00 A.M., Friday, July 25, 1958, at Suite 510, 704 South Spring Street, Los Angeles, California, before Robert H. Clark, CSR, a Notary Public in and for the County of Los Angeles, State of California, pursuant to annexed Subpoena.

APPEARANCES OF COUNSEL:

For the Plaintiffs:

ROBERT A. NELSON, Esq., and
JOHN S. SAMSON, Esq.

For Defendant LUSH:

CHAUNCEY BARNEY, Esq.
(Not present at Deposition.)

For All Other Defendants:

CROSBY, PANSING & GUENSEL,
By: Robert C. Guensel, Esq.

[fol. 1030] MARJORIE MATSON, a witness herein, being first duly sworn, deposed and testified as follows:

Direct examination.

By Mr. Nelson:

[fol. 1031] Q. Can you state whether or not the law firm at that time represented the legal aid of the Brotherhood of Railroad Trainmen—perhaps I should say whether they were designated as regional counsel?

A. Yes. They were.

Q. Was that true all the time you were employed there?

A. Yes. It was.

[fol. 1032] Q. Mrs. Matson, were there certain persons designated as regional investigators who worked out of the office?

A. Yes. There were several.

Q. Could you name them?

A. Robert Calkins. I believe his first name was Gale Klinkenbaird, K-l-i-n-k-e-n-b-a-i-r-d, Pat Maroney, Marco M. Verbon, and another one named Glenn—I forget his last name—

Q. You mentioned an Ike Byers awhile ago.

A. Yes, Ike Byers, and George Rerat, they were actually what we call the head of the investigation department as,

far as the office suite was concerned. I think George Rerat was in the office more than Ike Byers, although they both went out in the field on occasion, on cases, but they had control over all the investigators and the investigators reported in to them with whatever information they had.

[fol. 1033] Q. Were you familiar with the work that the regional investigators were doing?

A. Yes.

Q. What was that work?

A. They would receive leads as far as where an accident had occurred, or someone who was injured, and would usually proceed to that area and contact the family, and quite often the injured, just as quickly as possible, and at that time they would usually have this contract signed and [fol. 1034] make out a brief story of the accident and history of it, and then they would make out their little report and usually they brought those papers into the office.

Q. You stated that they were given leads. How were those leads given to the regional investigators?

A. They came in various ways. Where a large accident had occurred, I mean it was knowledge, they quite often went to the scene. They had bird dogs in the field who let them know.

Q. Now, would you define a "bird dog"?

A. Well, bird dogs were men that were, shall we say, responsible in a way to the investigators only as far as letting him know when there had been any injury or any accident. They would be possibly part of a crew, or something on this particular accident, but they would have first-hand and immediate notice, and they would notify the investigator where they were working, who they were working for, and of course the investigator would move on out.

Q. Were there other means by which leads were furnished to the investigators?

A. Yes. One in particular that I know of, they used a service called Western Clipping Service. These clippings, notices, were sent directly to the investigating department which was Mr. Rerat and Mr. Byers, to their attention.

[1035] Q. Do you know whether these regional investigators all operated in the same general manner?

A. Yes. I believe they did.

.

[fol. 1036] Q. Then, there would be a contract enclosed with the report?

A. That is right.

Q. You saw these when they came into the office?

[fol. 1037] A. The reports?

Q. Yes.

A. Yes.

Q. You were familiar with the form of contract that was being used?

A. Yes. I am.

Q. Again, I am going to refer to an exhibit that is in evidence identified as Exhibit Number 8, and ask you to look at that and state whether or not that is the form of contract that was used.

A. Yes. It was the form used.

Q. I now call your attention to Exhibit 25, which is also a form of contract, and ask you whether that form was used.

A. Yes. It was used.

Q. I note in Exhibit Number 8 the contract provides for an attorney's fee of thirty-three and a third per cent, and Exhibit Number 25 calls for an attorney's fee of twenty-five per cent. Could you explain that difference, or how these contracts were used?

A. The reason for that was that some cases were what we called our Brotherhood cases, Brotherhood members, and some were non-Brotherhood, and that was the difference. One was used for one, and one for the other.

Q. Exhibit Number 8 calling for thirty-three and a third per cent, was that used for the non-Brotherhood?

[fol. 1038] A. I believe that was non-Brotherhood, and the twenty-five per cent, as far as I can recall, was for the Brotherhood cases.

Q. Can you state whether or not the investigators were furnished with these forms of contracts?

A. Yes. They were.

.

[fol. 1039] Q. Did you enter these expense accounts on the books at times?

A. Yes. I did. Each investigator had several sheets as far as they were concerned. They had one where their payments that the firm made to Cleveland as far as their salary was concerned.

They had another one for their commissions, and they had one where they entered their weekly expense accounts so they could have a running account on each investigator as to what was being spent.

Q. Now, I would like to straighten that matter out. You mentioned a payment to Cleveland—did you say whether these investigators were paid a salary generally?

A. The firm, as far as the bookkeeping end was concerned, which I saw, the bookkeeper had a sheet on which was written the names of all these men that I have enumerated, and opposite their name was the amount of money [fol. 1040] that was to be contributed to Cleveland from the firm, for each man. I don't remember the exact amounts. I remember on the sheet it started with the highest paid and worked its way down. I would say there were approximately, perhaps five names on the list of men that they contributed for. It was totaled at the bottom and in a file which Mrs. Ogren had. There was a set letter which we wrote, a standard letter which we wrote every month to Cleveland enclosing the firm check and the total amount of the contributions to each one of those men, and it was just automatically mailed into Cleveland. I believe it was on the first of every month.

Q. To whom in Cleveland was this mailed?

A. It was mailed to the attention of the chief clerk—it was made out to the Brotherhood, but it was sent to Mr. Maher, M-a-h-e-r.

Q. What was his position, if you know?

A. All I know, we called him, his title ran chief clerk, and it was sent to the Brotherhood office. I don't know if he was directly responsible to Mr. Kennedy or not.

Q. Who is Mr. Kennedy?

A. He was the president—I believe the president, at the head of the Brotherhood.

Q. That is the Brotherhood of Railroad Trainmen?

A. Yes.

Q. You also mentioned a Mr. Kennedy who was in the [fol. 1041] office. Was he related in any manner to Mr. Kennedy, the president of the Brotherhood?

A. Yes. He was Rupert Kennedy, Junior. He was Mr. Kennedy's son.

[fol. 1042] Q. Mrs. Matson, I am going to show you what has been identified as Exhibit Number 34, which purports to be a settlement with reference to a case of Kenneth C. Wallner versus Thé Soo Line, and ask you whether you are familiar with that type of a report?

A. Yes. I am. That was the form of settlement sheet that was used.

Q. This would appear to be a case that was handled on the basis of 50 per cent of recovery in excess of \$50,000.

[fol. 1043] A. Yes.

Q. Can you state whether there were instances when cases were handled in that manner rather than on the twenty-five per cent or thirty-three and a third per cent of the total settlement?

A. Yes. It would depend on the circumstances whether or not the injured party had been contacted previously by some other counsel, or had other counsel earlier, and then the firm approached the same injured man, and they made an offer of that sort.

Q. So there were exceptions to the regular form of contract where the percentage was on the total of the recovery?

A. Yes.

Q. This would appear to be one?

A. Yes.

Q. I notice under gross recovery by Mr. Wallner, settlement check of \$51,564.63.

Then, under that is shown, "Loans," \$4,703.50.

Now, can you explain what those loans are?

A. They did that quite frequently for clients. It depends on the client's circumstances, whether they had a large family, or were of very modest means. Some of them were because of the fact of the type of—their particular position with the crew, and how they became injured; but where the family needed money, and there was nothing [fol. 1044] coming in, the firm set up a definite loan basis to the client. For example, they probably would send them \$100 on the first, perhaps \$100 on the 15th, but it would be a set basis of \$200 a month, and that was just automatic from the bookkeeping department. She wasn't reminded to do it very month. It was set up on the books to make the loan to those people, and then when the case was settled, it was to be deducted from the recovery.

Q. Those payments were made by the law firm of Davis Rerat, Yaeger and Lush?

A. Yes. It shows on the checks.

Q. Now, I notice on Exhibit 24, attorney's fee of \$20,000, and from that is deducted what is designated twenty-five per cent overhead expense, or \$5,000. Can you explain what that deduction is?

A. On every settlement there was an overhead expense, a definite percentage for exactly what it says. I mean it was just a standard item that was taken off. I imagine that was to include the normal run of secretarial work and so on and so forth.

Q. Then, below that is show "Extra expense, J. E. Bergstrom, \$150; Oscar Peterson, \$150, for a total of \$300." Could you explain what those two items are?

A. Bird dog fees. They are taken off, and then the investigator was paid after all that was deducted.

Q. This one statement shows the deduction of the \$300 [fol. 1045] from the \$15,000, leaving \$14,700, and then there is shown fifteen per cent M. M. Verbon, which totaled \$2,205.

A. That is his commission for that particular case, after everything else has been taken off.

Q. Then, the fee was based upon the balance?

A. That is right, for the investigator.

Q. Was fifteen per cent a customary commission?

A. I think that twenty-five percent and thirty-three and a third per cent, which we used earlier, was the basis for the attorneys fees for their recovery, and then ten per cent was used quite often for the investigator, and then fifteen per cent was used too.

Q. The fifteen per cent on the non-Brotherhood cases where the attorney's fee was thirty-three and a third?

A. I would say yes.

Q. I am going to call your attention now to Exhibit 35, which is another settlement sheet relating to the case of Walter Johnson versus Northern Pacific. I notice that shows a ten per cent, M. M. Verbon.

A. Yes.

Q. Do you know whose handwriting that is, that appears on the bottom of Exhibit 35?

A. That is the handwriting of Ferol Ogren, the book-keeper.

Q. Referring to Exhibit 35 and the ten per cent to M. M. Verbon, \$136.25, can you state whether or not that would [fol. 1046] be his commission on that?

A. Yes. It would be.

Q. Then, calling your attention to the handwriting at the bottom of the page, M. M. Verbon, and it shows advance to Cleveland, \$350.

A. Yes.

Q. Will you explain that item?

A. That was on this monthly remittance that the firm of Davis, Rerat, Yaeger and Lush made to the salaries of the investigators.

Q. Then it is shown, less commission earned, \$36.25, and under that \$213.75, which would be the balance.

A. Yes.

Q. Can you state whether or not the advances made to Cleveland for the individual investigators were all handled in this manner?

A. Yes.

[fol. 1047] Q. So then the advance made to Cleveland was a charge against the commission of the investigator?

A. Yes.

[fol. 1048] A. On several occasions that I know the checks were photostated for and were used in the office, for showing to other people verdicts, and large settlements that were made.

[fol. 1049] Q. Mrs. Matson, the contracts, which we have discussed, similar to Exhibit 8 and Exhibit 25, at the time they were delivered or mailed to the office of the law firm by the regional investigators, can you state whether they bore the signature of the claimants?

A. Yes.

[fol. 1050] Q. Mrs. Matson, from your experience in the office of the law firm, could you explain to us the mechanics of setting up and maintaining an account relating to a particular case?

A. When the report came in from the investigator along with the contract, then the case was officially opened. Mrs. Ogren would set up a ledger sheet for each particular client and would usually contain their name and the name of the railroad, their address and phone number, and up in the little righthand corner would be a percentage figure, twenty-five per cent, or thirty-three and a third per cent, whichever the case happened to be, and after that it would say "BRT," in caps, or else "NON BRT," and right underneath all of that would be the initials, sometimes the name written in full, of the investigator who was to be credited with the original commission for signing up the case, and it was actually his, and when the settlement was made, then he would be the one who would be entitled to whatever the percentage was that they had put down for his commission, and then on that ledger sheet would be all the expenses that would be involved, for instance, the investigating costs, and the filing fees, and so forth, which would all be charged against that client, any loans that were made to him, and so forth.

Q. If a "bird dog" had aided in signing this case, would [fol. 1051] that be indicated on the records? I forgot about that.

A. I forgot about that too. Underneath the name of the investigator that was credited was usually the name of the man, if a bird dog had been used, his name would appear, and of course if not, it was assumed that the investigator had signed the case.

Q. Would there be anything after the same name, or next to the name of the bird dog to indicate who he was?

A. They used the letters on the sheets quite often, "BD" for bird dog. The words "bird dog" never actually appeared, but the letters were there.

Q. Was that a term that was used?

A. It was used in the office. It was a common word.

Q. Did you make any entries on the records with reference to payments made to the Cleveland office?

A. I have posted from the sheet that was used each month—the check stub used to have, like "payable to Brotherhood of Railroad Trainmen," and underneath that we would list all the investigators and the amount of money that that included, sort of a recap.

[fol. 1052] I have posted on investigator sheets, "See advance to Cleveland," which was the phrase that was used as far as entries.

Q. What type of a sheet was this?

A. It was a regular ledger sheet, the same as the clients had. They were all in a bound book, and the investigator's sheet was an alphabetized book.

Q. In addition to the register lead sheet for each case on each client, then there was a sheet with reference to each investigator, is that correct?

A. Yes.

Q. Would that investigator's sheet contain all of their items of expense as well as the advances made to Cleveland?

A. So far as I recall the advances to Cleveland, and the commission checks ran hand in hand in order to balance, but if I recall correctly, they had a separate sheet for the expenses which were paid to them.

Q. When the settlements were made with the regional investigators, on what accounts were those checks drawn?

A. All checks were drawn on the firm account, Davis, Rerat, Yaeger and Lush, which was with the Marquette National Bank of Minneapolis. They had just the one checking account, as far as the firm was concerned, for bookkeeping purposes.

[fol. 1053]

By Mr. Nelson:

Q. Mrs. Matson, did you at any time work the switchboard in the office?

A. I did relief work for Harriet Kinikin, who was the switchboard operator.

Q. While you were doing that work did you become familiar with the method of contact with these regional investigators?

A. Yes. There would be occasions when either the investigation department, or for instance Mr. Rerat himself would come to the switchboard and ask that we locate right away a certain investigator, whichever one he would happen to want, it may be Mr. Klinkenbaird, or Verbon, or any of the others, because sometimes it was time consuming, and we would stay with the call until we located them. [fol. 1054] If we didn't know what area they were in, or at which particular city or hotel, we would usually call their homes first to find out when the wife last heard from them, where they were located, but as a general rule the investigating department pretty much knew where they were, and we would call them, and the particular party that wanted them would talk to them.

Q. Generally what occasioned these hurry-up calls?

A. Quite often it would be—in fact very often it was a lead of a particular bad railroad accident, or some injury that happened to some crew member, and they would want the investigator to get out there and contact them and make a report, possibly get a contract signed if it were feasible.

[fol. 1055]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S NELSON EXHIBIT "M"

[fol. 1056]
(Exhibit 8)

DAVIS, RERAT, YAEGER & LUSH

Regional Counsel
Brotherhood of Railroad Trainmen

and

Brotherhood of Railroad Signalmen
610 Baker Building
Minneapolis 2, Minn.

I hereby employ DAVIS, RERAT, YAEGER & LUSH, Attorneys
at Law, of Minneapolis, Minnesota, to represent me in the
prosecution and recovery of my claim against the
..... Railway Company for personal injuries
received by me on the day of 19....., and I
agree to pay them 33 1/3 percent of the net amount received
or recovered by settlement or suit for their services.

No Settlement to be Made Without My Consent
and Check to be Made Payable to Me.

Dated

Claimant

We hereby accept the above claim and cause
of action, and agree to prosecute the same to
settlement or judgment, on the terms above
set forth.

Dated

Attorneys

[fol. 1057]
(Exhibit 25)

DAVIS, RERAT, YAEGER & LUSH

Regional Counsel
Brotherhood of Railroad Trainmen
and

Brotherhood of Railroad Signalmen
610 Baker Building
Minneapolis 2, Minn.

I hereby employ DAVIS, RERAT, YAEGER & LUSH, Attorneys at Law, of Minneapolis, Minnesota, to represent me in the prosecution and recovery of my claim against the _____ Railway Company for personal injuries received by me on the _____ day of _____ 19____, and I agree to pay them 25 percent of the net amount received or recovered by settlement or suit for their services.

No Settlement to be Made Without My Consent
and Check to be Made Payable to Me.

Dated _____

Claimant

We hereby accept the above claim and cause of action, and agree to prosecute the same to settlement or judgment, on the terms above set forth.

Dated _____

Attorneys

[fol. 1058]
(Exhibit 32)

50019.

(Letterhead of Brotherhood of Railroad Trainmen,
Cleveland 13, Ohio)

December 7, 1955.

Personal and Confidential

Re: M. M. Verbon

Mr. E. A. Rerat,
c/o Davis, Rerat, Yaeger & Lush,
Legal Counsel.

Dear Gene:

I am happy to comply with your request of December 6, and Brother Verbon will be placed on the payroll at a salary of \$350.00 per month, effective December 1. Our Payroll Department is just in the process of making up the December 15 payroll, and in order that Brother Verbon will receive his salary for the first half of the month, they are making no deduction for tax purposes.

However, so that the necessary adjustments may be made for the last half of December, I am forwarding to Brother Verbon with his copy of this letter, the necessary forms (Form W-4 and Form CEB-1) which I request that he immediately fill out and return to me. One covers his tax exemptions, and the other is for our Tax Department.

With the Greetings of the Season, I am

Fraternally yours,

/s/ C. R. MAHER
C. R. Maher, Chief Clerk,
Legal Aid Department.

CRM:vn

cc: Mr. M. M. Verbon, Reg. Investigator

1086

[fol. 1059]

(Exhibit 33)

JAMES W. McLEOD v. GREAT NORTHERN RAILWAY COMPANY

GROSS AMOUNT OF SETTLEMENT

\$27,250.00

Attorneys' fees—1/4th of \$27,250.00

6,812.50

(Attorneys have agreed to waive expenses incurred in the handling of case.)

\$20,437.50

So-called sickness benefits which Mr. McLeod has received and which under the law the Ry. Co. is obligated to deduct and repay to the Railroad Retirement Board

673.50

Check to Mr. McLeod

\$19,764.00

FEE:

\$6812.50

25% Overhead Expense

1703.12

5109.38

Extra Expense—

H. B. Pflaum

150.00

4959.38

10% M. M. Verbon^d

495.94

4463.44

[fol. 1060]

(Exhibit 34)

KENNETH C. WALLNER V. SOO LINE

| | |
|-----------------------|-------------|
| Gross Recovery: | \$90,000.00 |
| Advances from Company | 13,731.87 |

| | |
|---------|-----------|
| Voucher | 76,268.13 |
|---------|-----------|

Attorneys' fees—50% of recovery in excess of \$50,000—Attorneys agreed to waive expenses of approximately \$2,200. and absorb them in their item for attorneys' fees—50% of \$40,000.

| |
|-----------|
| 20,000.00 |
|-----------|

| |
|-----------|
| 56,268.13 |
|-----------|

| | |
|-------|----------|
| Loans | 4,703.50 |
|-------|----------|

| | |
|-----------------------|-----------|
| Checks to Mr. Wallner | 51,564.63 |
|-----------------------|-----------|

GROSS RECOVERY BY MR. WALLNER:

| | |
|--------------------|-------------|
| Settlement checks, | \$51,564.63 |
|--------------------|-------------|

| | |
|-------|----------|
| Loans | 4,703.50 |
|-------|----------|

| | |
|-------------------|-----------|
| Advances from Co: | 13,731.87 |
|-------------------|-----------|

| | |
|-------|-----------|
| Total | 70,000.00 |
|-------|-----------|

| | |
|------|-------------|
| FEE: | \$20,000.00 |
|------|-------------|

| | |
|----------------------|----------|
| 25% Overhead Expense | 5,000.00 |
|----------------------|----------|

| |
|-----------|
| 15,000.00 |
|-----------|

Extra Expense:

| | |
|-----------------|----------|
| J. E. Bergstrom | \$150.00 |
|-----------------|----------|

| | | |
|----------------|--------|--------|
| Oscar Peterson | 150.00 | 300.00 |
|----------------|--------|--------|

| |
|-----------|
| 14,700.00 |
|-----------|

| | |
|------------------|----------|
| 15% M. M. Verbon | 2,205.00 |
|------------------|----------|

| |
|-----------|
| 12,495.00 |
|-----------|

1088

[fol. 1061]
(Exhibit 35)

WALTER JOHNSON V. NORTHERN PACIFIC

| | |
|----------------------------|-------------|
| Amount of gross settlement | \$19,900.00 |
| Sickness Benefits | 268.71 |

| | |
|---------|-----------|
| Voucher | 19,631.29 |
|---------|-----------|

| | |
|--|---------|
| Attorneys' fees—50% of amount recovered in excess of \$16,000 or 50% of \$3900.00 | 1950.00 |
|--|---------|

| | |
|-------|-----------|
| Loans | 17,681.29 |
| | 1,200.00 |

| | |
|----------------------|-----------|
| Check to Mr. Johnson | 16,481.29 |
|----------------------|-----------|

| | |
|------|-----------|
| FEE: | \$1950.00 |
|------|-----------|

| | |
|----------------------|--------|
| 25% Overhead Expense | 487.50 |
|----------------------|--------|

| | |
|----------------|---------|
| Extra Expense— | 1462.50 |
|----------------|---------|

| | |
|---------------|--------|
| W. E. Buckley | 100.00 |
|---------------|--------|

| | |
|------------------|---------|
| 10% M. M. Verbon | 1362.50 |
|------------------|---------|

| | |
|--|--------|
| | 136.25 |
|--|--------|

| | |
|--------------|---------|
| M. M. Verbon | 1226.25 |
|--------------|---------|

| | |
|----------------------|--------|
| Advance to Cleveland | 350.00 |
|----------------------|--------|

| | |
|------------------------|--------|
| Less commission earned | 136.25 |
|------------------------|--------|

| | |
|--|--------|
| | 213.75 |
|--|--------|

[fol. 1062]
(Exhibit 36)

LORENZO DOW JENNINGS ESTATE V. MILWAUKEE

| | |
|------------------------------------|-------------|
| Amount of settlement | \$30,000.00 |
| Adjusted attorneys' fees | 3,250.00 |
| | <hr/> |
| Check to Nellie M. Jennings | 26,750.00 |
| FEE: | \$3250.00 |
| 25% Overhead Expense | 812.50 |
| | <hr/> |
| | 2437.50 |
| Extra Expense— | |
| C. E. Adams | 150.00 |
| | <hr/> |
| | 2287.50 |
| 10% M. W. Verbon | 228.75 |
| | <hr/> |
| | 2058.75 |
| M. M. Verbon | |
| Comm. Earned | 228.75 |
| Bal. due firm on adv. to Cleveland | 213.75 |
| | <hr/> |
| Check to M. M. V. | 15.00 |

1090

[fol. 1063]

(Exhibit 37)

LYMAN H. FITZGERALD VS. N. P.
1-17-58

| | | |
|----------------------|--|------------|
| Gross Recovery | | \$9,000.00 |
| Less R.R.B. Benefits | | 1,105.00 |

| | | |
|-------------------|--|----------|
| Amount of voucher | | 7,895.00 |
|-------------------|--|----------|

Attys fees 25% of \$9,000, i.e.

| | | |
|----------------|----------|----------|
| | 2,250.00 | |
| Loans returned | 800.00 | 3,050.00 |

| | | |
|-----------------|--|------------|
| Check to client | | \$4,845.00 |
|-----------------|--|------------|

| | | |
|------|--|----------|
| Fee: | | 2,250.00 |
|------|--|----------|

| | | |
|------------------|--|--------|
| 25% O.H. Expense | | 562.50 |
|------------------|--|--------|

| | | |
|--|--|----------|
| | | 1,687.50 |
|--|--|----------|

Extra Expense:

W. G. Shonka

Trimble

\$50.00

50.00

100.00

Special Investigation

Expense—M. M. Verbon

1,587.50

158.75

1,428.75

[fol. 1064]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S CHASE EXHIBIT "E"

Book No. 3

Cash Book

3

| 1954 | | | |
|------|----|--------------------------|---------|
| Feb | 3 | Rawlings (Deinca) Feb | 770.25 |
| | 5 | Brandon (Moore) | 175 - |
| Mar | 1 | Haley (Wilson) | 320.25 |
| | 25 | Rawlings (Deinca Mar) | 770.25 |
| | 25 | D R Y & L | 1851.25 |
| | 25 | " | 1851.25 |
| | - | Brandon (Moore) | 175 - |
| Apr | 6 | D R Y & L | 1851.25 |
| | | Ratner (King. Mar & Apr) | 500 - |
| | | Brandon | 175 - |
| | | Haley (Wilson) | 320.25 |
| | 7 | Rawlings (Deinca) | 770.25 |
| | 29 | Haley (Wilson) | 320.25 |
| | 30 | Rawlings (Nichols) | 1500 - |
| May | 4 | Brandon (Moore) | 175 - |
| | 5 | Rawlings (Deinca) | 770.25 |
| | 8 | Ratner (King) | 250 - |
| | 7 | D R Y & L | 1851.25 |
| | 17 | Rawlings (Nichols) | 300 - |
| | 27 | Haley (Wilson) | 320.25 |
| Jun | 5 | Rawlings (Deinca June) | 770.25 |
| | 7 | D R Y & L | 1851.25 |
| | 1 | Brandon (Moore) | 175 - |
| | 14 | Ratner (King) | 250 - |
| | 21 | Hendee | 645.00 |
| | | | 750.00 |
| | 29 | Mc Elroy | 371.68 |
| | 24 | Savage | 1681 - |

[fol. 1065]

1092

105

| Month | Day | Name | Amount | Check |
|-------|-----|-----------------|--------|-------|
| June | 30 | Brandon (Morse) | 175 | ✓ |
| | 30 | Staley (Wilson) | 32025 | ✓ |
| July | 6 | D & R | 185125 | ✓ |
| | 12 | L. H. Rawlings | 89175 | ✓ |
| | 23 | | 32025 | ✓ |
| | 30 | A. D. Brandon | 175 | ✓ |
| | - | Staley | 32025 | ✓ |
| | - | Ratner | 190 | ✓ |
| Aug | 4 | D & R | 185125 | ✓ |
| | 12 | Rawlings | 109050 | ✓ |
| | 27 | Savage | 42025 | ✓ |
| | 31 | Brandon | 175 | ✓ |
| | | Ratner | 215 | ✓ |
| Sept | 7 | Rawlings | 109050 | ✓ |
| | | D & R | 217150 | ✓ |
| | | Ratner | 200 | ✓ |
| Oct | 6 | Ratner | 235 | ✓ |
| | | A. D. Brandon | 175 | ✓ |
| | | D. R. & L. | 217150 | ✓ |
| | | Rawlings | 109050 | ✓ |
| | 18 | Henslee | 5000 | ✓ |
| | 18 | Savage | 73776 | ✓ |
| Nov | 8 | Rawlings | 109050 | ✓ |
| | 8 | Staley | 400 | ✓ |
| | | D. R. & L. | 185135 | ✓ |
| | | Savage | 43673 | ✓ |
| | | Brandon | 175 | ✓ |
| | | Ratner | 175 | ✓ |
| | | Henslee | 10000 | ✓ |
| | | Ratner | 2363 | ✓ |

| Month | Date | Name | Amount | Balance |
|-------|------|-----------------|---------|---------|
| Dec. | 2 | A. D. Brandon | 175 - | ✓ |
| | ✓ 2 | B. M. Savage | 84726 | ✓ |
| | 8 | C. H. Rawlings | 11098 | ✓ |
| | 6 | J. N. Haley | 40583 | ✓ |
| | 16 | D. R. y. & L. | 199760 | ✓ |
| | 16 | | 500 | ✓ |
| | | 1955. | | |
| Jan | 3 | Savage | 508356 | ✓ |
| | 3 | E. D. Brandon | 175 - | ✓ |
| | 6 | J. Haley | 39532 | ✓ |
| | 10 | Rawlings | 109388 | ✓ |
| | 13 | P. H. Ratner | 49863 | ✓ |
| | 14 | J. L. Beeson | 206815 | ✓ |
| Feb | ✓ 1 | A. D. Brandon | 175 - | ✓ |
| | 7 | C. H. Rawlings | 109388 | ✓ |
| | 9 | J. L. McElroy | 58541 | ✓ |
| | 11 | J. N. Haley Jr. | 35776 | ✓ |
| | 14 | D. R. | 206815 | ✓ |
| | 16 | Payne N. Ratner | 49863 | ✓ |
| | 16 | H. H. H. | 12250 - | ✓ |
| | | | 2952053 | |
| Mar | 2 | A. D. Brandon | 175 - | ✓ |
| | 7 | J. N. Haley Jr. | 37363 | ✓ |
| | 8 | Payne N. Ratner | 49863 | ✓ |
| | 16 | D. R. y. & L. | 206815 | ✓ |
| | 14 | C. H. Rawlings | 109388 | ✓ |
| | 29 | E. B. Hender | 5000 | ✓ |
| | 31 | A. D. Brandon | 275 - | ✓ |
| | | | 3326482 | |

6601

1957

| Date | | Name | Amount | Balance |
|------|----|-------------------|--------|---------|
| Jan | 1 | Savage. D M | 81478 | ✓ |
| | | Yaeger. Carl B | 85426 | ✓ |
| | 4 | Brandon. A D | 225 | ✓ |
| | 6 | D. R. Y. L | 37713 | ✓ |
| | | Resat. E. G | 98601 | ✓ |
| | 12 | Lush. Philip B | 1000 | ✓ |
| | 13 | Rawlings. C. N | 110038 | ✓ |
| | 23 | Savage | 2100 | ✓ |
| | 27 | Retrench for King | 20036 | ✓ |
| Feb | 2 | Yaeger. Carl B | 85426 | ✓ |
| | 2 | Haley. J. H. | 42701 | ✓ |
| | 2 | Brandon. A D | 225 | ✓ |
| | 6 | Resat. E. G | 100049 | ✓ |
| | 8 | D. R. Y. Lush | 37713 | ✓ |
| | 10 | Rawlings | 110038 | ✓ |
| | 15 | Savage. Miller | 286278 | ✓ |
| | 27 | Lush. P. B | 1000 | ✓ |
| Mar | 2 | Brandon. A D | 225 | ✓ |
| | 2 | Yaeger. Carl L | 85426 | ✓ |
| | 5 | Resat. E. G | 99325 | ✓ |
| | 8 | McElroy. J. L | 52574 | ✓ |
| | 9 | | 62323 | ✓ |
| | 14 | D. R. Y. L | 37713 | ✓ |
| | 19 | Hensker. E. B | 5000 | ✓ |
| | 23 | Rawlings. C. N | 110038 | ✓ |
| | 29 | Yaeger. C. L | 85426 | ✓ |

[Tot. 1070]

1097

[illegible]

| | | | |
|------|----|------------------|----------|
| Nov | 2 | A B Brandon | 225 - ✓ |
| | 1 | E B Henslee | 4000 - ✓ |
| | 1 | E B Henslee | 2000 - ✓ |
| | 1 | Lush P B | 800 - ✓ |
| | 8 | E A Kerat | 137038 ✓ |
| | 12 | Yaeger Carl | 105426 ✓ |
| | 15 | Rawlings E N | 110038 ✓ |
| | 28 | Hildebrand Cliff | 105426 ✓ |
| | 30 | Henslee E B | 5000 - ✓ |
| Dec | 1 | Brandon A B | 225 - ✓ |
| | 6 | Kerat E A | 137038 ✓ |
| | 7 | Henslee E B | 4000 - ✓ |
| ✓ | 10 | Savage B M | 100426 ✓ |
| | | Lush Phil B | 32552 ✓ |
| | | Mc Elroy J T | 65130 ✓ |
| | 17 | Rawlings | 110038 ✓ |
| | 28 | Yaeger C L | 105426 ✓ |
| | | Mc Elroy | 170038 ✓ |
| 1957 | | | |
| Jan | 2 | Kerat E A | 137038 ✓ |
| | | Hildebrand | 105426 ✓ |
| | 11 | Lush P B | 1000 - ✓ |
| | 14 | Mc Glyn Dan | 117538 ✓ |
| | | Rawlings E N | 117538 ✓ |
| | 17 | Henslee E B | 6300 - ✓ |
| | 18 | Yaeger L D | 105426 ✓ |
| | 25 | Brandon A B | 225 - ✓ |
| ✓ | 28 | Savage B M | 60252 ✓ |
| | 31 | Hildebrand C | 105426 ✓ |

[fol. 1073]

| | | | | | | | | | |
|-------|-----|-----------------|----------|--|--|--|--|--|--|
| Feb | 1 | A. D. Brandon | 225 - ✓ | | | | | | |
| | ✓ 1 | E. A. Kerat | 157038 ✓ | | | | | | |
| | ✓ 1 | Laurel Lee | 21 - ✓ | | | | | | |
| | 3 | Rawlings | 119185 ✓ | | | | | | |
| | 14 | Henslee G. B. | 7000 - ✓ | | | | | | |
| | 1 | Mc Elroy | 54005 ✓ | | | | | | |
| | 25 | Yaeger & Yaeger | 106126 ✓ | | | | | | |
| | 27 | Hildebrand | 106476 ✓ | | | | | | |
| Mar | 1 | Brandon | 225 - ✓ | | | | | | |
| | 4 | Kerat | 158945 ✓ | | | | | | |
| | 9 | Rawlings | 117863 ✓ | | | | | | |
| | 22 | Mc Elroy | 69010 ✓ | | | | | | |
| | 22 | Yaeger & Yaeger | 105776 ✓ | | | | | | |
| | 25 | Mc Elroy | 144189 ✓ | | | | | | |
| | 28 | Hildebrand | 105776 ✓ | | | | | | |
| April | 1 | Brandon | 225 - ✓ | | | | | | |
| | 4 | Kerat | 99785 ✓ | | | | | | |
| | 5 | Kerat | 53188 ✓ | | | | | | |
| | 15 | Rawlings | 117863 ✓ | | | | | | |
| | 22 | Mc Elroy | 69139 ✓ | | | | | | |
| | 25 | Yaeger & Yaeger | 105776 ✓ | | | | | | |
| | 29 | Henslee | 7500 - ✓ | | | | | | |
| | 29 | Hildebrand | 805776 ✓ | | | | | | |
| | 1 | Henslee E.B. | 5000 - ✓ | | | | | | |
| May | 1 | Brandon | 225 - ✓ | | | | | | |
| | 6 | Kerat | 167373 ✓ | | | | | | |
| | 13 | Rawlings | 117863 ✓ | | | | | | |
| | 14 | Mc Elroy | 64048 ✓ | | | | | | |
| | 17 | Yaeger & Yaeger | 105776 ✓ | | | | | | |
| | 20 | Hildebrand | 105776 ✓ | | | | | | |

[fol. 1074]

1101

1074

| Month | Day | Name | Amount | Check |
|-------|-----|------------|---------|-------|
| June | 28 | Mc Ellyn | 490- | ✓ |
| | 25 | Mc Elroy | 70363 | ✓ |
| | 24 | Lush | 1000- | ✓ |
| | 24 | Brandon | 225- | ✓ |
| | 24 | Perat | 1167673 | ✓ |
| | 24 | Rawlings | 117863 | ✓ |
| | 26 | Hildebrand | 105774 | ✓ |
| July | 2 | Henslee | 5000- | ✓ |
| | 2 | Perat | 114785 | ✓ |
| | 1 | Brandon | 225- | ✓ |
| | 15 | Rawlings | 117863 | ✓ |
| | 16 | Mc Elroy | 70363 | ✓ |
| | 19 | Mc Ellyn | 500- | ✓ |
| | 24 | Yaeger | 79951 | ✓ |
| | 29 | Hildebrand | 105774 | ✓ |
| | 31 | Brandon | 225- | ✓ |
| Aug | 5 | Savage | 127328 | ✓ |
| | 5 | Perat | 114785 | ✓ |
| | 15 | Lush | 1000- | ✓ |
| | 8 | Rawlings | 117863 | ✓ |
| | 14 | Mc Elroy | 37653 | ✓ |
| | 26 | Yaeger | 271089 | ✓ |
| Sept | 6 | Perat | 114785 | ✓ |
| | 6 | Hildebrand | 105774 | ✓ |
| | 6 | Mc Ellyn | 950- | ✓ |
| | 6 | Brandon | 225- | ✓ |
| | 13 | Rawlings | 117863 | ✓ |
| | 16 | Yaeger | 122013 | ✓ |
| | 16 | Mc Elroy | 70363 | ✓ |

| 1957 | | | |
|-------------------------|----|------------|----------|
| Sept | 23 | Henslee | 6000 - ✓ |
| | 30 | Hildebrand | 105776 ✓ |
| Oct | 1 | Brandon | 225 - ✓ |
| | 14 | Reret | 114785 ✓ |
| | 14 | Rawlings | 117863 ✓ |
| | 14 | Savage | 151552 ✓ |
| | 16 | Mc Elroy | 73290 ✓ |
| | 28 | Mc Blynn | 935 - ✓ |
| | 30 | Lush | 2000 - ✓ |
| | 30 | Henslee | 7500 - ✓ |
| | 30 | Hildebrand | 105776 ✓ |
| | 21 | Henslee | 6000 - ✓ |
| Nov | 6 | Brandon | 225 - ✓ |
| | 11 | Reret | 71897 ✓ |
| | 12 | Rawlings | 117863 ✓ |
| | 14 | Reret | 826 ✓ |
| | 15 | Henslee | 7500 - ✓ |
| | 18 | Mc Elroy | 69584 ✓ |
| | 20 | Yaeger | 244026 ✓ |
| | 21 | Henslee | 7500 - ✓ |
| | 27 | Hildebrand | 105776 ✓ |
| Dec | 2 | Brandon | 225 - ✓ |
| | 4 | Mc Blynn | 500 - ✓ |
| | 4 | Reret | 72723 ✓ |
| | 9 | Rawlings | 117863 ✓ |
| | 12 | Henslee | 7500 - ✓ |
| | 13 | Savage | 75776 ✓ |
| | 16 | Mc Elroy | 75776 ✓ |
| (Continued on Page 125) | | | |

Grandson

| 1951 | | | | | | | | | |
|------|----|-----------|--|--|-----|--|-----|--|--|
| Jan | | | | | | | | | |
| | | cr. - Dec | | | 175 | | 175 | | |
| Feb | | | | | 175 | | 175 | | |
| Mar | 5 | | | | 175 | | 175 | | |
| | 25 | | | | 175 | | 175 | | |
| Apr | | | | | 175 | | 175 | | |
| May | | | | | 175 | | 175 | | |
| June | 4 | | | | 175 | | 175 | | |
| July | 7 | | | | 175 | | 175 | | |
| Aug | 30 | | | | 175 | | 175 | | |
| Sept | | | | | 175 | | 175 | | |
| Oct | 31 | | | | 175 | | 175 | | |
| Nov | 6 | | | | 175 | | 175 | | |
| | 8 | | | | 175 | | 175 | | |
| Dec | | | | | 175 | | 175 | | |
| | 2 | | | | | | 175 | | |
| 1952 | | | | | | | | | |
| Jan | 1 | | | | 175 | | 175 | | |
| | 6 | | | | 175 | | 175 | | |
| Feb | | | | | 175 | | 175 | | |
| Mar | 1 | | | | 175 | | 175 | | |
| | 2 | | | | | | 175 | | |
| | 31 | | | | | | 175 | | |

[fol. 1077]

1104

1097

E. J. Moore 225 4/15

1952

E. J. Moore \$225.00

[fol. 1078]

1105

1078

| | | | | | |
|------|----|--|------|------|--|
| | | | 225- | 50- | |
| Apr | 1 | | 225- | | |
| | 12 | | | | |
| May | 1 | | 225- | | |
| | 2 | | | 225- | |
| June | 1 | | 225- | | |
| | 1 | | | 225- | |
| July | 1 | | 225- | | |
| | 1 | | | 225- | |
| Aug | 1 | | 225- | | |
| | 1 | | | 225- | |
| Sept | 1 | | 225- | | |
| | 1 | | | 225- | |
| Oct | 1 | | 225- | | |
| | 3 | | | 225- | |
| Nov | 1 | | 225- | | |
| | 3 | | | 225- | |
| Dec | 1 | | 225- | | |
| | 12 | | | 225- | |
| 1956 | | | | | |
| Jan | 1 | | 225- | | |
| | 4 | | | 225- | |
| Feb | 1 | | 225- | | |
| | 2 | | | 225- | |
| Mar | 1 | | 225- | | |
| | 2 | | | 225- | |
| Apr | 1 | | 225- | | |
| | 2 | | | 225- | |
| May | 1 | | 225- | | |
| | 1 | | | 225- | |
| June | 1 | | 225- | | |
| | 1 | | | 225- | |

[fol. 1079]

| 1956 | | | | | |
|------|----|--|-------|--------------|--|
| July | 1 | | 225 - | 225 - | |
| | 2 | | | 225 - | |
| Aug | 1 | | 225 - | | |
| July | 31 | | | 225 - | |
| Sept | 1 | | 225 - | | |
| Aug | 31 | | | 225 - | |
| Oct | 1 | | 225 - | | |
| | 1 | | | 225 - | |
| Nov | 1 | | 225 - | | |
| | 2 | | | 225 - | |
| Dec | 1 | | 225 - | | |
| | 1 | | | <u>225 -</u> | |
| 1957 | 1 | | 225 - | | |
| Jan | 23 | | | 225 | |
| Feb | 1 | | 225 - | | |
| | 1 | | | 225 - | |
| Mar | 1 | | 225 - | | |
| | 1 | | | 225 - | |
| Apr | 1 | | 225 - | | |
| | 1 | | | 225 - | |
| May | 1 | | 225 - | | |
| | 1 | | | 225 - | |
| June | 1 | | 225 - | | |
| | 24 | | | 225 - | |
| July | 1 | | 225 - | | |
| | 1 | | | 225 - | |
| Aug | 1 | | 225 - | | |
| July | 31 | | | 225 - | |
| Sept | 1 | | 225 - | | |
| | 6 | | | 225 | |
| Oct | 1 | | 225 | | |
| | 1 | | | 225 - | |

~~fol. 1080j~~

Brandon

1959

Jan 1

Feb. 1

March 3

April 4

1

(1959 in
new book)

Removed from payroll

225-

225-

225-

225-

225-

225-

0

[fol. 1082]

Statement

| 1954 | Sal | R.R. 24 | Memor | Total |
|-------------------|--|------------------------|--------------|----------------|
| Jan. L. K. Byers | 300.00 | 18.75 | 1.50 | |
| L. J. Calhoun | 400.00 | 18.75 | 1.50 | |
| B. A. Clendenen | 400.00 | 18.75 | 1.50 | |
| H. P. Moseley | 350.00 | 18.75 | 1.50 | |
| B. J. Renalt | 300.00 | 18.75 | 1.50 | |
| | <u>1750.00</u> | <u>93.75</u> | <u>7.50</u> | <u>1851.25</u> |
| Feb. Same | | | | |
| Mar. Same | | | | |
| Apr. Same | | | | |
| May Same | | | | |
| Jun. Same | | | | |
| July Same | August 5000 213.25 August 5000 213.25 | Increased to 350 - 1/1 | | (Same as July) |
| Aug. Same | August 5000 213.25 August 5000 213.25 | | | (Same as July) |
| Sept. L. K. Byers | 450.00 | 28.14 | 2.25 | |
| L. J. Calhoun | 400.00 | 28.14 | 2.25 | |
| B. A. Clendenen | 400.00 | 28.14 | 2.25 | |
| H. P. Moseley | 350.00 | 28.14 | 2.25 | |
| B. J. Renalt | 450.00 | 28.14 | 2.25 | |
| | <u>2050.00</u> | <u>142.70</u> | <u>11.25</u> | <u>2203.95</u> |
| Oct. L. K. Byers | 250.00 | 21.88 | 1.75 | |
| L. J. Calhoun | 400.00 | 21.88 | 1.75 | |
| B. A. Clendenen | 400.00 | 21.88 | 1.75 | |
| H. P. Moseley | 350.00 | 21.88 | 1.75 | |
| B. J. Renalt | 500.00 | 21.88 | 1.75 | |
| The Hudson | 150.00 | 14.88 | 1.25 | |
| | <u>2125.00</u> | <u>112.32</u> | <u>9.00</u> | <u>2246.32</u> |
| 4188 | | | | 212791 |

[fol. 1083]

1110

Darius & Rarat

| Balance | | Balance | |
|----------|--|-----------|--------|
| 12/31/53 | | C1 185125 | |
| Jan. | | 185125 | |
| Feb | | 185125 | |
| Mar 25 | | 185125 | |
| May | | 185125 | |
| Mar 25 | | 185125 | |
| Apr | | 185125 | |
| -6 | | 185125 | |
| May | | 185125 | |
| 7 | | 185125 | |
| June | | 185125 | |
| 7 | | 185125 | |
| July | | 185125 | |
| 6 | | 185125 | |
| Aug | | 185125 | |
| 4 | | 185125 | |
| Sept | | 220175 | |
| 1 | | 217150 | |
| Oct | | 212998 | |
| 6 | | 217150 | |
| Nov | | 227178 | |
| 48 | | 185125 | |
| Dec | | 206815 | |
| 16 | | 199760 | |
| 16 | | 500 | |
| 1955 | | 869186 | 869185 |

[Tot. 1084]

November

| | | | | |
|----------------|----------------|---------------|-------------|---------|
| L. N. Ayers | 350.00 | 21.88 | 175 | |
| L. J. Perkins | 400.00 | 21.88 | 175 | |
| B. A. Chubbard | 400.00 | 21.88 | 175 | |
| H. P. McCreary | 350.00 | 21.88 | 175 | |
| B. McCreary | 300.00 | 21.88 | 175 | |
| B. J. Perat | 350.00 | 21.88 | 175 | |
| | <u>2050.00</u> | <u>131.29</u> | <u>1050</u> | 2291.78 |

December

| | | | | |
|----------------|---------------|--------------|------------|---------|
| L. N. Ayers | 350.00 | 21.88 | 175 | |
| L. J. Perkins | 400.00 | 21.88 | 175 | |
| B. A. Chubbard | 400.00 | 21.88 | 175 | |
| H. P. McCreary | 100.00 | | | |
| B. McCreary | 350.00 | 21.88 | 175 | |
| B. J. Perat | <u>350.00</u> | <u>21.88</u> | <u>175</u> | |
| | 1950 | 109.40 | 875 | 2068.15 |

Ruled to 100 - 12/1

1955

January - same

Feb. same

Mar. same

Apr. same

May same

June 1600.00 87.82 700 1694.52

July 1600.00 87.82 7- 1694.52

Aug. 1600.00 87.82 7- 1694.52

Sept. 1694.52

Oct. 1694.52

Nov. 1694.52

Dec. 1694.52

M. M. Verbon 350.00 21.88 175 12/1

rest same 1600.00 87.82 7- 2068.15

[fol. 1085]

U x R

27

| 1937 | | | | | | | | | |
|------|----|--|--|--------|--------|--|--|--|--|
| Jan | 1 | | | 206815 | | | | | |
| | 14 | | | | 206815 | | | | |
| Feb. | | | | 206815 | | | | | |
| | 14 | | | | 206815 | | | | |
| Mar | | | | 206815 | | | | | |
| | 16 | | | | 206815 | | | | |
| Apr | | | | 206815 | | | | | |
| | 8 | | | | 206815 | | | | |
| May | 1 | | | 206815 | | | | | |
| | 9 | | | | 206815 | | | | |
| June | 1 | | | | 206815 | | | | |
| | 3 | | | | 18681 | | | | |
| July | 1 | | | 169452 | | | | | |
| | 8 | | | 376261 | 150771 | | | | |
| July | 1 | | | 169452 | 76267 | | | | |
| | 8 | | | | 132089 | | | | |
| | 18 | | | | 37363 | | | | |
| Aug | 1 | | | 169452 | | | | | |
| | 5 | | | | 169452 | | | | |
| Sept | 1 | | | 169452 | | | | | |
| | 12 | | | | 169452 | | | | |
| Oct | 1 | | | 169452 | | | | | |
| | 5 | | | | 169452 | | | | |
| Nov | 1 | | | 169452 | | | | | |
| | 4 | | | | 169452 | | | | |
| Dec | 1 | | | 206815 | | | | | |
| | 6 | | | | 37363 | | | | |
| | 7 | | | | 169452 | | | | |

cs. 1/2 mon salary Regs

[fol. 1086]

1113

1086

1957
JanGlen A. McArthur
P. R.
Rice

350 -

2198

525

377 13

[fol. 1087]

S. R. Y. L.

| | | |
|--------|-------|-------|
| Jan 1 | 37713 | |
| Feb 6 | | 37713 |
| Feb 1 | 37713 | |
| Feb 8 | | 37713 |
| Mar 1 | 37713 | |
| Mar 14 | | 37713 |
| Apr 1 | 37713 | |
| Apr 9 | | 37713 |
| May 1 | 37713 | |
| May 3 | | 37713 |

transferred to E. L. Y. L.

[for 1088]

Balance

| 1934 | | bal | Dr. | U To | Total | |
|------|-----------------------------|----------|-------|------|--------|----------|
| | J. F. A. Nelson | 300.00 | 18.75 | 1.2 | 320.25 | |
| | Apr Same | | | | | |
| | May Same | | | | | |
| | June Same | | | | | |
| | July Same | | | | | addition |
| | Aug Conv. | 72-25161 | 15.75 | 129 | 268.63 | 50 - |
| | Sept. conv | nothing | | | | |
| | Oct. conv. to 11 | 203.28 | 12.70 | 10.2 | 216.95 | 9839 |
| | Nov. | 300.00 | 18.75 | 150 | 320.25 | 2977 |
| | Dec Same | | | | | 50 - |
| 1935 | Increased to \$550 - July 1 | | | | | 50 |
| | Jan. 11/55 | | | | | 275 |
| | J. F. A. Nelson | 350.00 | 21.98 | 175 | 373.63 | 17.20 |
| | Feb. Same | | | | 373.63 | 13 |
| | Mar. Watson | | | | 373.63 | |
| | Apr Same | | | | 373.63 | |
| 1935 | | | | | | |

[fol. 1089]

| | | | | | | | | |
|--|--|--------------|--------------|--------|------|-------|-------|--|
| | | May | Jelix Nelson | 350 | 2188 | 175 | 37363 | |
| | | June | - same | | | | | |
| | | July | - same | | | | | |
| | | Aug | - | | | | | |
| | | Jelix Nelson | 350 | 2188 | 175 | 37743 | | |
| | | Earl Mares | 50 | 313 | 25 | | | |
| | | Jan | 50 | 313 | 25 | | | |
| | | Feb | 50 | 313 | 25 | | | |
| | | Mar | 50 | 313 | 25 | | | |
| | | Apr | 50 | 313 | 25 | | | |
| | | May | 50 | 313 | 25 | | | |
| | | June | 50 | 313 | 25 | | | |
| | | July | 50 | 313 | 25 | | | |
| | | Aug | 50 | 313 | 25 | | | |
| | | Sept | | | | | | |
| | | J Nelson | 350.00 | 2188 | 175 | 37743 | | |
| | | E Mares | 50.00 | 313 | 25 | 42701 | 5388 | |
| | | Oct | | | | 42701 | | |
| | | Nov | | | | 42701 | | |
| | | Dec | | | | 42701 | | |
| | | 1950 | | | | | | |
| | | Jan | J A Nelson | 350.00 | 2188 | 175 | | |
| | | Feb | E. Mares | 50.00 | 313 | 75 | 43101 | |
| | | 1/2 mo. | | | | | 21550 | |
| | | taken off | 2/15/50 | | | | | |

[fol. 1091]

Haley

| | | | |
|------------|--------|--------|-------|
| May 1 | 37363 | 37363 | |
| June 1 | 37363 | 37363 | |
| 6 | | | |
| July 1 | 37363 | 37363 | |
| 15 | | 37363 | |
| 15 | | 42704 | |
| 6 | | 37363 | |
| Aug 1 | 80067 | | |
| | 192154 | 192156 | |
| Sept 1 | 42701 | 42701 | |
| 28 | | | |
| Oct 1 | 42701 | 42701 | |
| 17 | | 42701 | |
| Nov 1 | 42701 | 42701 | |
| 22 | | | |
| Dec 1 | 42701 | 42701 | |
| 30 | | 42701 | |
| 1913 Jan 1 | 43101 | 43701 | |
| Feb 2 | | 43101 | 21950 |
| Feb 1 | 21950 | | |
| Mar 9 | | 21950 | |
| | 64651 | 64651 | |

[Vol. 1092]

1957

Jan 1 R. E. Wells

450.00

21.8

8.15

477.13

Inc. Quic. 7½ to 27.

452.00

21.99

7.00

478.99

Inc. R. I. C. 2% to 2½% 1958

450.00

21.88

8.75

480.63

[fol. 1093]

1959

RUC increased to 3%
Dolls

1502
2188
1050
48238

4-1-59

Dolls reduced to \$360

350
2188
1050
48238

[Vol. 1095]

1122

61015

McGlynn

1958
 July 1
 Aug 28
 Aug 1
 Sept 1
 Oct 17
 Oct 20
 Nov 1
 Dec 1

48063

600-

48063

48063

750-

48063

975-

48063

48063

ok

516432

541692

1496 credit

1959

1958 Credit

Jan 1
 Jan 12
 Feb 1
 March 1
 April 16
 April 1

48238

14916

48238

975-

48238

12416

38238

950-

112132

207416

1959
 Transferred to
 new Book

[fol. 1096]

Salaries

| 1954 | Jan | Feb | Mar | U. I. Tax | | |
|-----------------------|-------------|---------------|---------|-----------|--------|--------|
| Jan | | | | | | |
| N. E. Bush | 375.00 | 18.75 | 150 | | | |
| E. D. Howarth | 500.00 | 18.75 | 150 | | | |
| E. N. Legge | 500.00 | 18.75 | 150 | | | |
| R. N. Morgan | 500.00 | 18.75 | 150 | | | |
| R. H. Moore | 500.00 | 18.75 | 150 | | | |
| Wm. Sisco | 300.00 | 18.75 | 150 | | | |
| D. O. Taylor | 500.00 | 18.75 | 150 | | | |
| S. M. Tyson | 250.00 | 15.62 | 125 | | | |
| L. R. Maher | 500.00 | 18.75 | 150 | | | |
| E. J. Moore (Brandon) | 175.00 | — | — | | | |
| | 3925.00 | 165.62 | 1325 | 410387 | | |
| Same | | | | 410387 | | |
| Mar. | R. E. Buell | 232.52 | 14.97 | 119 | | |
| off | L. R. Maher | 250.00 | 15.62 | 125 | | |
| | | 3914.52 | 177.47 | 1489 | 410613 | |
| April | R. E. Buell | 450.00 | 18.75 | 150 | | |
| | | 3875.50 | 165.62 | 1325 | 410837 | |
| May | Same | | | | 410837 | |
| June | Radozycki | 500.00 | 18.75 | 150 | | |
| | | 4375.50 | 182.37 | 1475 | 457412 | |
| July | Same | | | | 457412 | |
| Aug | Same | N. E. Bush | 375.00 | 18.75 | 150 | |
| | | E. D. Howarth | 362.90 | 18.75 | 150 | |
| | | R. E. Buell | 450.00 | 18.75 | 150 | |
| | | E. N. Legge | 435.47 | 18.75 | 150 | |
| | | R. H. Moore | 500.00 | 18.75 | 150 | |
| | | Wm. Sisco | 300.00 | 18.75 | 150 | |
| | | Radozycki | 500.00 | 18.75 | 150 | |
| | | D. O. Taylor | 500.00 | 18.75 | 150 | |
| | | S. M. Tyson | 125.00 | 38.1 | 63 | |
| 1954 | | R. N. Morgan | 4088.58 | 18.75 | 150 | |
| | | | | 176.56 | 15.13 | 423907 |

[fol. 1097]

E. B. Hendee

| | | CI | | 11.0103 |
|--------------------|---------|---------|---------|---------|
| Dec 31 1953 - Bal. | | 1101090 | | |
| 1954 Jan | 410387 | | | |
| Feb | 410387 | | | |
| Mar | 410682 | | | |
| Apr | 405387 | | | |
| May | 405387 | | | |
| June 21 | 457412 | 7500 - | | |
| July 18 | 2000595 | 148808 | | |
| Aug | 457412 | 499378 | | |
| Sept | 423907 | 5000 - | | |
| Oct | 334111 | | | |
| Nov | 379946 | | | |
| Dec 10 | 489420 | 10000 - | | |
| 1955 Jan | 432753 | 15000 - | | |
| Feb | 2517549 | | 1017549 | |
| Mar 29 | 460116 | | | |
| | 460116 | | | |
| | 457781 | 12250 - | | |
| | 396211 | 23270 | | |
| | | 5000 - | | |
| | | 31250 | | |
| | | | 707847 | |
| | | | | 1078 |

[fol. 1098]

Sept.

| | | | | |
|--------------|----------------|---------------|-------------|----------------|
| A. E. Bush | 375.00 | 28.14 | 225 | |
| E. D. Howard | cons. | 626 | 50 | |
| R. E. Snells | 450.00 | 28.14 | 225 | |
| S. W. Legge | cons. | 626 | 50 | |
| R. H. Mass | 500.00 | 28.14 | 225 | |
| Thm. Allen | 300.00 | 18.75 | 150 | |
| W. Ludwig | 500.00 | 28.14 | 225 | |
| D. O. Taylor | 500.00 | 28.14 | 225 | |
| A. M. Tyson | cons. | - | - | |
| R. H. Morgan | 500.00 | 28.14 | 225 | |
| | <u>3125.00</u> | <u>208.11</u> | <u>1400</u> | <u>3341.11</u> |

Oct.

| | | | | |
|--------|----------------|---------------|-------------|----------------|
| Bush | 375.00 | 28.88 | 175 | |
| Howard | 274.19 | 28.88 | 137 | |
| Snells | 450.00 | 28.88 | 175 | |
| Legge | 483.9 | 30.2 | 24 | |
| Mass | 500.00 | 28.88 | 175 | |
| Allen | 300.00 | 18.75 | 150 | |
| Ludwig | 500.00 | 28.88 | 175 | |
| Taylor | 500.00 | 28.88 | 175 | |
| Tyson | 149.35 | 13.8 | 85 | |
| Morgan | 500.00 | 28.88 | 175 | |
| | <u>3616.93</u> | <u>168.07</u> | <u>1446</u> | <u>3799.46</u> |

Nov.

| | | | | |
|--------|----------------|---------------|-------------|----------------|
| Bush | 375.00 | 28.88 | 175 | |
| Howard | 500.00 | 28.88 | 175 | |
| Snells | 450.00 | 28.88 | 175 | |
| Legge | 316.67 | - | - | |
| Mass | 500.00 | 28.88 | 175 | |
| Allen | 300.00 | 18.75 | 150 | |
| Ludwig | 500.00 | 28.88 | 175 | |
| Taylor | 500.00 | 28.88 | 175 | |
| Tyson | 250.00 | 15.62 | 125 | |
| Morgan | 500.00 | 28.88 | 175 | |
| | <u>3375.00</u> | <u>180.53</u> | <u>1500</u> | <u>4394.20</u> |

| | | | | |
|----------|--------|--|--|----------------|
| Dec. New | 500.00 | | | <u>4894.20</u> |
|----------|--------|--|--|----------------|

[fol. 1099]

| | | | |
|--------|---------|----------|--------|
| Apr 1 | 525116 | 525116 | 717877 |
| Apr 11 | 525116 | 525116 | |
| Apr 1 | 525116 | | |
| June 9 | 5013129 | 525116 | 763013 |
| June | 551129 | 5013129 | |
| May 13 | 5564258 | 763013 | |
| July 1 | 551129 | 5013129 | 551129 |
| 20 | | 557129 | |
| Aug 1 | 6115387 | 5564258 | |
| Sept 1 | 551129 | | |
| 124 | 7217646 | 551129 | |
| Oct 1 | 551129 | 6115387 | |
| Nov 21 | | 551129 | |
| Nov 1 | 551129 | | |
| Dec 1 | 8315903 | | |
| 1 | 551129 | | |
| 6 | 743940 | | |
| 20 | | 1102258 | |
| Dec 31 | 9614972 | 10000000 | |
| 30 | 350 | 8768774 | |
| | 9615322 | 846548 | |
| | | 9615322 | |

M. H. Miller - 9 mm

[Vol. 1100]

| | | | | | | |
|-------|--------------------------|---------|--------|------|-----------------|--|
| Dec | Legge | 250.00 | | | | |
| | alberta same | 3871.00 | 18750 | 15 | 432753 | |
| 1915 | | | | | | |
| Jan | Busch | 375.00 | 2188 | 175 | | |
| | Gaills | 450.00 | 2188 | 175 | | |
| | Halley an | 500.00 | 2188 | 175 | | |
| | Haworth | 480.00 | 2188 | 175 | | |
| | Moss | 500.00 | 2188 | 175 | | |
| | Morgan | 500.00 | 2188 | 175 | | |
| | Rodriguez | 500.00 | 2188 | 175 | | |
| | Sees | 300.00 | 1875 | 150 | | |
| | Taylor | 500.00 | 2188 | 175 | | |
| | Tyson | 250.00 | 152 | 125 | | |
| | | 4375.00 | 20941 | 1675 | 460116 | |
| Feb | Same | | | | 460116 | |
| Mar | add. | | | | | |
| | R. M. Craig | 250.00 | | | | |
| | J. Gray | 250.00 | | | | |
| | R. N. Mc New | 150.00 | | | | |
| | Total | 4375.00 | 20941 | 1675 | 525116 | |
| April | Same | | | | 525116 | |
| May | May Same | | | | 525116 | |
| June | D. J. Patmore | 250.00 | 938 | 75 | 551129 | |
| July | Same | 5275.00 | 21875 | 1750 | 551129 | |
| Aug | Same | 5275.00 | 21875 | 1750 | 551129 | |
| Sept | | | | | 551129 | |
| Oct | | | | | 551129 | |
| Nov | | | | | 551129 | |
| Dec | | | | | 551129 | |
| | M. H. Miller 9 mos | | | | 551129 + 743940 | |
| | | | | | 350 | |
| | @ 810297 - 2188 - 1.75 - | | 743240 | | | |
| | Adj. on Patmore - 1.75 - | | 759 | | | |

[col. 1101]

1128

January 1956

| | | | | | |
|------|----------|---------|--------|-------|---------|
| Jan. | Bush | 375. | 21.88 | 5.25 | |
| | Bush | 350 | 21.88 | 5.25 | |
| | Halligan | 200 | 21.88 | 5.25 | |
| | Humbach | 500 | 21.88 | 5.25 | |
| | Moss | 500 | 21.88 | 5.25 | |
| | Morgan | 500 | 21.88 | 5.25 | |
| | Palmore | 250 | 9.38 | 5.25 | 2.25 |
| | Mc New | 150 | | | |
| | Radzyg | 500 | 21.88 | 5.25 | |
| | Rees | 300 | 18.75 | 4.50 | |
| | Taylor | 500 | 21.88 | 5.25 | |
| | Tison | 250 | 15.62 | 3.75 | |
| | | 5275.00 | 218.79 | 52.50 | 5547.79 |

| | | | | | |
|------|------------------|---------|--------|-------|---------|
| June | (May adjustment) | | | | |
| | T. P. Halligan | 366.67 | 21.88 | 6.25 | |
| | Tom Rees | 240.00 | 15.00 | 3.60 | |
| | | 6081.67 | 315.04 | 59.10 | 5349.91 |

Es. 9⁰⁰ on Palmore (6 mos)
 charged on 250 for bill net of 150
 Es. 350 on 1955.

| | | | | | |
|------|---------------|---------|--------|-------|---------|
| July | | | | | |
| Aug | | | | | |
| Sept | | | | | |
| Oct | | | | | |
| | T R J. Sommer | 581.78 | 21.88 | 5.25 | |
| | | 5856.78 | 240.67 | 54.15 | 6156.70 |
| | | | | | |
| Dec | E E Noble | 100.00 | | | 6256.70 |

[fol. 1102]

Henslee E B

| 1952 | | | | | | | | | |
|------|----|-----------------------|---------|---------|--|--|---------|--|--|
| Jan | 1 | | 554779 | | | | | | |
| Feb | 1 | | 554779 | | | | | | |
| Mar | 1 | | 554779 | | | | | | |
| " | 19 | | | 5000 - | | | | | |
| Apr | 2 | | 1664337 | 7500 - | | | 414337 | | |
| Apr | 1 | | 554779 | 12500 - | | | 969116 | | |
| May | 1 | | 554779 | | | | | | |
| Apr | 27 | | 2778893 | 10000 - | | | 522895 | | |
| June | 1 | | 334981 | 12500 - | | | 1058576 | | |
| June | 18 | | 3308876 | 6000 - | | | | | |
| | 25 | credit | | 5500 - | | | | | |
| July | 1 | | 554779 | 12500 - | | | 92374 | | |
| | 19 | | 3863655 | 5000 - | | | 2137595 | | |
| Aug | 1 | | 554779 | | | | | | |
| Sept | 1 | | 554779 | | | | | | |
| Aug | 17 | | 4973223 | 6000 - | | | 471943 | | |
| Sept | 1 | | 554779 | 4501250 | | | | | |
| Sept | 17 | | 554779 | 6000 - | | | 426742 | | |
| Oct | 1 | | 554779 | 5101250 | | | | | |
| Oct | 1 | From | 60891 | | | | | | |
| Nov | 1 | | 554779 | | | | | | |
| | 1 | | 215870 | | | | | | |
| | 1 | | | 9000 - | | | 203101 | | |
| Dec | 1 | | 1204553 | 6001250 | | | | | |
| | 1 | | 615670 | | | | | | |
| | 1 | | 6820238 | | | | | | |
| | 1 | | 100 - | | | | | | |
| Nov | 30 | | 6810223 | 5000 - | | | 328973 | | |
| | 1 | credit Patron - 6 mos | | 4 - | | | | | |
| Dec | 7 | | | 4000 - | | | 171029 | | |
| 1952 | | | 582807 | 6000 - | | | | | |
| | | | 413030 | 7532150 | | | 2019120 | | |

[Vol 103]

January, 1957

| | Bush | 375.00 | 2188 | 525 | 7.00 | | | | |
|----------|-------------------------|---------|-------|-----|------------|--|--|--|--|
| | Crago | 250.00 | - | - | - | | | | |
| | Endy | 250.00 | - | - | - | | | | |
| | Halligan | 500.00 | 2188 | 525 | 7.00 | | | | |
| | Hawthorn | 500.00 | 2188 | 525 | 7.00 | | | | |
| | Mr. New | 150.00 | 2188 | 525 | 7.00 | | | | |
| | Moss | 500.00 | 2188 | 525 | 7.00 | | | | |
| | Morgan | 500.00 | 2188 | 525 | 7.00 | | | | |
| | Patmore | 250.00 | 938 | 225 | 300 on 150 | | | | |
| | Radoyski | 100.00 | 2188 | 525 | 7.00 | | | | |
| | Rees | 300.00 | 1875 | 450 | 6.00 | | | | |
| | Taylor | 500.00 | 2188 | 525 | 7.00 | | | | |
| | Thommetter | 581.78 | 2188 | 525 | 7.00 | | | | |
| 1/1/57 | Thompson | 250.00 | 1562 | 375 | 5.00 | | | | |
| | Thable | 150.00 | - | - | - | | | | |
| | | 5556.78 | 2188 | 525 | 7.00 | | | | |
| 1/5/57 | Thiss. Jan. 7th | 500.00 | 2188 | 525 | 7.00 | | | | |
| 1/6/57 | Geo Beck (Jan 7th) | 500.00 | 2188 | 700 | - | | | | |
| 4/1/57 | S. M. Tyson Resigned | 5306.78 | 10317 | 65 | - | | | | |
| 5/1/57 | Remond R. J. Thommetter | 581.78 | 2188 | 525 | 7.00 | | | | |
| 7-1-57 | Swiss Inc. 50 | 350.00 | 2188 | 525 | 7.00 | | | | |
| 9-16-57 | Swiss Inc. 50 | 400.00 | 2188 | 525 | 7.00 | | | | |
| 11-2-57 | R. W. Morgan died | - | - | - | - | | | | |
| 10-1-57 | Forrest W. Benner | 150.00 | 938 | 3 | - | | | | |
| 10-1-57 | George Beck | 250.00 | 1563 | 5 | - | | | | |
| 11-16-57 | Remond Morgan, died | 500.00 | 2188 | 7 | - | | | | |
| 12-1-57 | Crago Inc. to \$500. | - | - | - | - | | | | |
| 11-1-57 | R. C. More | 600.00 | 2188 | 780 | - | | | | |

[fol 1104]

| | | | | | | |
|--|----|--------------------------|---------|---------|-----------|--|
| | | | | 71927 | | |
| Jan | 1 | | 582507 | | | |
| Jan | 17 | | 592807 | 6300- | | |
| Jan | 1 | Geo Beek | 52888 | 701927 | 241191 20 | |
| Jan | 1 | Inc in Ride | 685675 | 701927 | 21 66222 | |
| Feb | 1 | | 1750 | | | |
| | | | 636945 | 701927 | 65482 | |
| | | | 584557 | | | |
| | | Geo Beek | 52878 | | | |
| | | G E Thies | 52888 | | | |
| | 13 | | | 1000- | | |
| Mar | 1 | | 1326779 | 1401927 | 21 75140 | |
| | | | 584557 | | | |
| | | Thies | 52878 | | | |
| | | | 96232 | | | |
| April | 1 | | 557495 | | | |
| | 29 | | | 5000- | | |
| | | | | 7500- | | |
| May | 1 | | 2521773 | 2451927 | 130.99 | |
| June | 1 | | 496429 | | 27 346220 | |
| July | 2 | | 3019147 | | 27 862649 | |
| July | 1 | | 496429 | | 362649 | |
| Aug | 1 | | 3315576 | 5000- | 864491 | |
| | | | | 3751927 | 1366333 | |
| Sept | 23 | | 501842 | | 766333 | |
| Sept | 1 | | 501842 | | 1270675 | |
| Oct | 1 | | 4518260 | | | |
| | | | 504342 | | | |
| | | | 5023262 | | | |
| | | | 55043 | | | |
| | 21 | | | 6000- | | |
| | 30 | | | 7500- | | |
| Nov | 1 | | 5572745 | 5101927 | 470118 | |
| | 15 | | 687206 | | | |
| | 21 | | | 7500- | | |
| Dec | 1 | | | 7500- | | |
| | 12 | | 6189951 | 6601927 | 4419764R | |
| | | | 535143 | | | |
| | | | | 7500- | | |
| | | | 6746094 | 7351927 | 6082332R | |
| 1958 | | Credit Balance From 1957 | | 605833 | | |
| Amended - 1958 - Continued on Page 135 | | | | | | |

[fol. 1105]

Salaries

| 1954 | | | | | | |
|-------|------------------|---------------|--------------|------------|--|-------|
| Feb. | J. Klein | 300.00 | 18.75 | 150 | | |
| | J. G. Thompson | 297.41 | 15.72 | 150 | | |
| | | <u>557.61</u> | <u>34.47</u> | <u>300</u> | | 58884 |
| Feb. | J. Thompson | 300.00 | 18.75 | 150 | | |
| | | <u>600.00</u> | <u>37.50</u> | <u>300</u> | | 64050 |
| Mar. | J. Klein | 257.25 | 14.20 | 130 | | |
| | | <u>559.25</u> | <u>31.95</u> | <u>280</u> | | 59700 |
| Apr. | J. Klein | 290.32 | 18.15 | 145 | | |
| | | <u>590.32</u> | <u>36.90</u> | <u>295</u> | | 63017 |
| May | J. Klein | 280.64 | 17.05 | 140 | | |
| | | <u>580.64</u> | <u>34.50</u> | <u>290</u> | | 62984 |
| Jun. | | 600.00 | 37.50 | 300 | | 64050 |
| July | | 300.00 | 18.75 | 150 | | |
| | | <u>120.97</u> | <u>7.86</u> | <u>60</u> | | 44968 |
| | | <u>420.97</u> | <u>26.61</u> | <u>210</u> | | |
| Aug. | Klein comes 8/30 | 130.65 | -0- | 65 | | |
| Sept. | Thompson 8/22 | 208.06 | 12.01 | 124 | | |
| | | <u>338.71</u> | <u>12.01</u> | <u>169</u> | | 35341 |
| Oct. | Klein comes | | | | | |
| | Thompson comes | | | | | |
| | Klein | 203.23 | 4.08 | 102 | | |
| | Thompson | <u>203.23</u> | <u>7.02</u> | <u>102</u> | | |
| | | <u>406.46</u> | <u>11.10</u> | <u>204</u> | | 41990 |
| Nov. | Klein | 290.00 | 18.15 | 145 | | |
| | Thompson | <u>300.00</u> | <u>18.75</u> | <u>150</u> | | |
| | | <u>590.00</u> | <u>36.90</u> | <u>295</u> | | 62983 |
| Dec. | Klein | 290.32 | 18.15 | 145 | | |
| | Thompson | <u>300.00</u> | <u>18.75</u> | <u>150</u> | | |
| | | <u>590.32</u> | <u>36.90</u> | <u>295</u> | | 63016 |

F. L. McE. Long

55

| Bal | | 12/31/53 | | | |
|------|----|----------|--------|--|--|
| Jan | | 58884 | | | |
| Feb | | 64050 | | | |
| Mar | | 592- | | | |
| Apr | | 63017 | | | |
| May | | 661934 | | | |
| June | | 607635 | | | |
| July | 29 | 64050 | 371685 | | |
| Aug | | 44968 | | | |
| Sept | | 3534 | | | |
| Oct | | 41990 | | | |
| Nov | | 122297 | | | |
| Dec | | 62983 | | | |
| | | 85282 | | | |
| | | 63016 | | | |
| | | 71007 | | | |
| | | 861832 | | | |
| | | | 36528 | | |

[fol 1107]

1134

1/67

| | | | | | | |
|------|-----------------------|---------------|-------------|------------|--------|--|
| 1956 | | | | | | |
| Jan. | Klein Lucite | 350.00 | 2188 | 175 | | |
| | Thompson | <u>198.39</u> | <u>1240</u> | <u>79</u> | | |
| | | 548.39 | 3428 | 274 | 585.41 | |
| Feb | J. J. Klein | 310.00 | 2188 | 175 | | |
| | J. J. Thompson | <u>267.86</u> | <u>1631</u> | <u>134</u> | | |
| | | 617.86 | 3819 | 309 | 659.14 | |
| Mar | J. J. Klein | 205.25 | 1292 | 102 | | |
| | J. J. Thompson | <u>300.00</u> | <u>1875</u> | <u>152</u> | | |
| | | 505.25 | 3157 | 252 | 539.34 | |
| Apr. | J. J. Klein - nothing | | | | | |
| | J. J. Thompson | | | 320.25 | | |
| May | J. J. Klein - nothing | | | | | |
| | J. J. Thompson | | | 320.25 | | |
| June | J. J. Klein nothing | | | | | |
| | J. J. Thompson | | | 320.25 | | |
| July | J. J. Klein | 293.55 | 1552 | 146 | | |
| | J. J. Thompson | <u>158.00</u> | <u>938</u> | <u>75</u> | 470.66 | |
| Aug | J. J. Klein | 146.79 | 918 | 73 | | |
| | Thompson | <u>270.97</u> | <u>1875</u> | <u>135</u> | 447.75 | |
| Sept | Klein | — | — | — | | |
| | Thompson | — | 0 | — | 320.25 | |
| Oct | J. J. Klein | 231.45 | 424 | 115 | | |
| | Thompson | <u>300.00</u> | <u>1875</u> | <u>150</u> | 557.09 | |
| Nov | J. J. Klein | <u>269.16</u> | <u>1180</u> | <u>152</u> | 591.13 | |
| | J. J. Thompson | <u>300.02</u> | <u>1875</u> | <u>150</u> | 601.44 | |
| Dec | J. J. Klein | 338.71 | 2117 | 170 | | |
| | J. J. Thompson | <u>300.00</u> | <u>1875</u> | <u>150</u> | 681.73 | |
| 1956 | | | | | | |

[fol. 1108]

| Date | | 1948 | 1949 |
|------|----|-------|--------|
| Jan | 24 | 58541 | 248298 |
| Feb | 9 | 65914 | 58541 |
| Mar | | 53934 | |
| Apr | 19 | 32025 | 119848 |
| May | 1 | 32025 | 32025 |
| June | 1 | 32025 | |
| July | 15 | 47066 | 64050 |
| Aug | 1 | 44775 | 91841 |
| Sept | 27 | 32625 | |
| Oct | 1 | 25709 | |
| Nov | 1 | 60725 | 146842 |
| Dec | 1 | 68183 | 68183 |
| Dec | 30 | | |

| | | | | Jan. | | Feb. | |
|-----|-------------|---------|--------|-------|---------|---------|--------|
| | | | | Total | | Total | |
| Jan | Brandon | 175. | - | - | 175- | 175- | - |
| | S. M. | 1750.00 | 93.75 | 750 | 1851.25 | 1750- | 93.75 |
| | Haley | - | - | - | - | - | - |
| | Henslee | 3925.00 | 165.62 | 1325 | 4103.87 | 3925- | 165.62 |
| | Mc Elroy | 557.61 | 34.47 | 276 | 588.94 | 600- | 37.50 |
| | Rawlins | 1050.00 | 37.50 | 3- | 1090.50 | 1050- | 37.50 |
| | Ratner | 2500 | - | - | 250- | - | - |
| | Savage | 800.00 | 37.50 | 3- | 840.50 | 800- | 37.50 |
| | McClynn | 400.00 | 18.75 | 3- | 418.75 | 400- | 18.75 |
| | | 8657.61 | | | | 8700- | |
| | | | | | | | |
| | | | | | | June | |
| | Brandon | 175.00 | - | - | 175- | 175- | - |
| | S. M. | 1750.00 | 93.75 | 750 | 1851.25 | 1750- | 93.75 |
| | Haley | 300.00 | 18.75 | 150 | 320.25 | 300- | 18.75 |
| | Henslee | 3875.00 | 165.62 | 1325 | 4053.87 | 4375- | 184.37 |
| | Mc Elroy | 588.64 | 17.50 | 140 | 619.94 | 600- | 32.50 |
| | Rawlins | 1050.00 | 37.50 | 3- | 1090.50 | 1050- | 37.50 |
| | Ratner | 2500 | - | - | 250- | - | - |
| | Savage | 800.00 | 37.50 | 3- | 840.50 | 800- | 37.50 |
| | | 8780.64 | | | | 9300 | |
| | | | | | | | |
| | | | | | | July | |
| | Brandon | 175.00 | - | - | 175- | 175- | - |
| | S. R. G. L. | 2050.00 | 140.70 | 1125 | 2201.95 | 2000- | 120.75 |
| | Haley | 2000 | 110 | - | - | 2032.3 | 1270 |
| | Henslee | 3125.00 | 100.11 | 16- | 3341.11 | 3669.3 | 168.07 |
| | Mc Elroy | - | - | - | - | 406.40 | 11.40 |
| | Rawlins | 1050.00 | 37.50 | 3- | 1090.50 | 1050- | 37.50 |
| | Ratner | 2500 | - | - | 250- | 250- | - |
| | Savage | 400.00 | 37.50 | 275 | 677.50 | 600- | 37.50 |
| | | 7650.00 | | | | 8375.50 | |

[col. 1110]

1137

| T. & I. | | Mar | | Total | | Apr | | 175 ⁰⁰ | |
|---------|-------------------|-----------|--------|-------|-------------------|--------------------|--------|-------------------|-------------------|
| - | 175 ⁰⁰ | 175.00 ✓ | - | - | 175 ⁰⁰ | 175 ⁰⁰ | - | - | 175 ⁰⁰ |
| 7.50 | 1857.25 | 1750.00 ✓ | 93.75 | 7.50 | 1851.25 | 1750 ⁰⁰ | 93.75 | 7.50 | 1851.25 |
| - | - | 380.00 ✓ | 1875 | 1.50 | 320.25 | 300 ⁰⁰ | 1875 | 1.50 | 320.25 |
| 13.25 | 4103.87 | 3914.50 | 177.47 | 14.29 | 4106.80 | 3875 ⁰⁰ | 165.64 | 13.25 | 4053.87 |
| 3 | 640.50 | 559.22 | 34.97 | 2.80 | 597 ⁰⁰ | 590.32 | 36.90 | 2.95 | 630.17 |
| 3 | 1090.50 | 1050.00 ✓ | 37.50 | 3.00 | 1090.50 | 1050 ⁰⁰ | 37.50 | 3.00 | 1090.50 |
| - | - | 260.00 ✓ | - | - | 250 ⁰⁰ | 1250 ⁰⁰ | - | - | 250 ⁰⁰ |
| 3 | 840.50 | 800.00 ✓ | 37.50 | 3.00 | 840.50 | 800 ⁰⁰ | 37.50 | 3.00 | 840.50 |
| 3 | 418.75 | - | - | - | - | 5 ⁰⁰ | - | - | - |
| | | 8792.74 | | | 8790.32 | | | | |

July

Aug

| 175 ⁰⁰ | | 175 ⁰⁰ | | 175 ⁰⁰ | | 175 ⁰⁰ | | 175 ⁰⁰ | |
|-------------------|---------|--------------------|--------|-------------------|---------|--------------------|--------|-------------------|---------|
| 7.50 | 1851.25 | 1750 ⁰⁰ | 93.75 | 7.50 | 1857.25 | 1750 ⁰⁰ | 93.75 | 7.50 | 1857.25 |
| 7.50 | 320.25 | 300.00 | 18.75 | 1.50 | 320.25 | 251.61 | 15.73 | 1.29 | 268.63 |
| 14.75 | 4574.12 | 4375.00 | 184.37 | 14.25 | 4574.12 | 4048.38 | 174.56 | 14.13 | 4289.97 |
| 3.00 | 440.50 | 420.97 | 26.61 | 2.10 | 449.68 | 339.71 | 13.01 | 1.07 | 353.41 |
| 3.00 | 1090.50 | 1050.00 | 37.50 | 3.00 | 1090.50 | 1050 ⁰⁰ | 37.50 | 3.00 | 1090.50 |
| - | - | 260.00 | - | - | - | 250 ⁰⁰ | - | - | 250.00 |
| 3.00 | 840.50 | 800.00 | 37.50 | 3.00 | 840.50 | 800 ⁰⁰ | 37.50 | 3.00 | 840.50 |
| | | 8510.00 | | | 8510.00 | | | | |

[fol. III]

Nov

December

| 175.00 | | 175 ⁰⁰ | | 175 ⁰⁰ | | 175 ⁰⁰ | | 175 ⁰⁰ | |
|--------|---------|-------------------|--------|-------------------|---------|--------------------|--------|-------------------|---------|
| 9.63 | 2129.98 | 2050.00 | 131.25 | 10.50 | 2291.78 | 1950 ⁰⁰ | 149.46 | 8.75 | 2068.15 |
| 10.2 | 216.95 | 300.00 | 18.75 | 1.00 | 320.25 | 300 ⁰⁰ | 18.75 | 1.00 | 320.25 |
| 14.46 | 3799.46 | 4691.67 | 187.53 | 15.00 | 4894.20 | 4125 ⁰⁰ | 187.53 | 15.00 | 4327.53 |
| 20.4 | 419.90 | 590.00 | 26.88 | 2.25 | 629.83 | 590.32 | 31.89 | 2.95 | 634.14 |
| 3 | 1090.50 | 1050.00 | 37.50 | 3.00 | 1090.50 | 1050 ⁰⁰ | 37.50 | 3.00 | 1110.98 |
| - | 250.00 | 312.50 | 21.82 | 1.75 | 386.07 | 475 ⁰⁰ | 21.89 | 1.75 | 498.63 |
| 3.10 | 710.33 | 800.00 | 43.76 | 3.50 | 847.26 | 800 ⁰⁰ | 43.76 | 3.50 | 847.26 |
| | | 1511.70 | | | 1511.70 | | | | |

| | | | | | | |
|-------|---|--|--|--|--|--|
| 1952 | | | | | | |
| Jan | | | | | | |
| | T | | | | | |
| | K | | | | | |
| Feb | | | | | | |
| | T | | | | | |
| | K | | | | | |
| March | | | | | | |
| | T | | | | | |
| | K | | | | | |
| Apr | | | | | | |
| | T | | | | | |
| | K | | | | | |
| May | | | | | | |
| | T | | | | | |
| | K | | | | | |
| June | | | | | | |
| | T | | | | | |
| | K | | | | | |
| July | | | | | | |
| | T | | | | | |
| | K | | | | | |
| Aug | | | | | | |
| | T | | | | | |
| | K | | | | | |
| Sept | | | | | | |
| | T | | | | | |
| | K | | | | | |
| Oct | | | | | | |
| | T | | | | | |
| | K | | | | | |
| Nov | | | | | | |
| | T | | | | | |
| | K | | | | | |
| Dec | | | | | | |
| | T | | | | | |
| | K | | | | | |

[fol. 1112]

Mr. Elroy. Francis L.

| 1952 | | | | |
|------|----|--|-------|--------|
| Jan | | | 52574 | |
| Feb. | | | 62323 | |
| Mar | 8 | | | 52574 |
| | 9 | | | 62323 |
| Apr | 1 | | 68921 | |
| May | 1 | | 70038 | |
| | 11 | | | 68921 |
| | 28 | | | 70038 |
| June | 1 | | 65009 | |
| | 21 | | | 65009 |
| July | 1 | | 70038 | |
| | 23 | | | 70038 |
| Aug | 1 | | 70038 | |
| | 1 | | 67605 | |
| | 1 | | 67605 | |
| | 1 | | | 137643 |
| | 1 | | 66347 | |
| Oct | 1 | | 70038 | |
| | 26 | | | 136385 |
| Nov | 1 | | 65130 | |
| Dec | 10 | | | 65130 |
| Dec | 1 | | 70018 | |
| | 28 | | | 70038 |

| 1957 | | Roses 270 | | | |
|---------|------------------|-----------|-------|-------|--------|
| Jan | J. J. Thompson | 150.00 | 8 17 | 300 | |
| | Klein | 300.00 | 21 88 | 700 | |
| Feb | J. J. Thompson | 500.00 | 30 08 | 10 - | 540.05 |
| | Klein C. & | 300.00 | 18 75 | 6 - | |
| | | 337.50 | 21 10 | 506 | 690.10 |
| | | 637.50 | 39 85 | 17 66 | 688.41 |
| Mar | J. J. Thompson | 300.00 | 18 75 | 6 - | |
| | Klein C. & | 338.71 | 21 17 | 676 | |
| | | 638.71 | 39 92 | 12 76 | 691.39 |
| April | T. J. Thompson | 300.00 | 18 25 | 600 | |
| | J. J. Klein | 291.67 | 18 23 | 583 | |
| | | 591.67 | 36 98 | 11 83 | 644.48 |
| May | T. J. Thompson | 300.00 | 18 75 | 6 - | |
| | J. J. Klein | 350.00 | 21 88 | 7 - | |
| | | 650.00 | 40 63 | 13 - | 703.63 |
| June | Same as May | 650.00 | 40 63 | 13 - | 703.63 |
| Sept. 1 | T. J. Thompson | 350.00 | 21 88 | 7 - | 378.88 |
| July | T. J. Thompson | 77.42 | 4 23 | 1 55 | |
| | J. J. Klein | 270.97 | 16 94 | 5 42 | 376.53 |
| Aug. | T. J. Thompson | 300. - | 21 88 | 7 - | |
| | J. J. Klein | 350. - | 21 88 | 7 00 | 703.63 |
| Sept. | T. J. Thompson | 350. - | 21 88 | 7 - | |
| | J. J. Klein | 327.04 | 20 44 | 6 54 | 732.90 |
| Oct. | T. J. Thompson | 350. - | 21 88 | 7 - | |
| | J. J. Klein | 242.74 | 18 31 | 5 86 | 695.84 |
| Nov. | T. J. Thompson | 350.00 | 21 88 | 7 00 | |
| | J. J. Klein | 350.00 | 21 88 | 7 - | 751.76 |
| Dec | Same as November | | | | 751.76 |

[fo. 114]

1141

Z. L. McElroy

[fol. 115]

| | | | | | |
|----------|--|-------|-------|--|--|
| 1957 | | | | | |
| Jan 1 | | 57005 | | | |
| Feb 15 | | 69010 | 57005 | | |
| Feb 1 | | 68841 | | | |
| Mar 1 | | | 69010 | | |
| April 22 | | 69139 | | | |
| April 1 | | | 69139 | | |
| May 14 | | 64048 | | | |
| May 1 | | | 64048 | | |
| June 25 | | 70363 | | | |
| June 1 | | | 70363 | | |
| July 16 | | 70363 | | | |
| July 1 | | | 70363 | | |
| Aug 14 | | 37653 | | | |
| Aug 1 | | | 37653 | | |
| Sept 16 | | 70363 | | | |
| Sept 1 | | | 70363 | | |
| Oct 16 | | 73290 | | | |
| Oct 1 | | | 73290 | | |
| Nov 18 | | 69584 | | | |
| Nov 1 | | | 69584 | | |
| Dec 16 | | 75776 | | | |
| Dec 1 | | | 75776 | | |
| Jan 23 | | 75776 | | | |

McElroy-1958-Cont. on Page 145

Palmer

1954

Jan J. E. Duncan

750 ⁰⁰ / 18.75 152

M. B. Nicholls

300 ⁰⁰ / 18.75 150

1050.00 3750 300

109050

Feb Same

Mar Same

Apr Same

May

June

July

Aug

Sept

Duncan

750 ⁰⁰ 21.88

175

Nicholls

300 ⁰⁰ 18.75

150

Oct

Duncan

1050.00 41.88

375

1100.64

Nicholls

750 ⁰⁰ 21.88

175

Nov

Same

1050.00 40.64

325

109388

Dec

Same

109388

109388

1955

Jan

Same

109388

Feb

Same

109388

Mar

Same

109388

Apr

Same

109388

May

Same

109388

June

Same

109388

[Col. 1116]

1143

C. H. Rawlings

| | | | | | |
|--------------|-----------------------------|--|--------|--------|--------|
| Bal 12/31/53 | | | | | |
| 1954 | Jan | | 109050 | | |
| | Feb | | 109050 | | |
| | 3 (Duncan) | | | 77025 | |
| | Mar | | 109050 | | |
| | 25 (Duncan) | | | 77025 | |
| | Apr | | 109050 | | |
| | 30 | | | 77025 | |
| | May | | 109050 | | |
| | 5 (Duncan) | | | 77025 | |
| | 17 (Nichols) | | 109050 | 300- | |
| | June | | 565125 | | 414975 |
| | 5 | | 109050 | | |
| | July | | 109050 | 77025 | |
| | 12 | | | 42150 | |
| | Aug | | 109050 | 89175 | |
| | 13 | | | 32025 | |
| | Sept | | 109050 | | |
| | 7 | | | 109050 | |
| | Oct | | 109050 | | |
| | 6 | | | 109050 | |
| | Nov | | 109050 | | |
| | 8 | | | 109050 | |
| | Dec | | 109050 | | |
| | 6 | | | 110078 | |
| | addl top (July to Dec. inc) | | 22028 | | |
| | 1955 | | 23928 | 23928 | |
| | Jan | | 109388 | | |
| | 10 | | | 109388 | |
| | Feb | | 109388 | | |
| | 7 | | | 109388 | |
| | Mar | | 109388 | | |
| | 14 | | | 109388 | |

[fol. 1117]

January 1956

J. Duncan
 Nicholls

| | | | |
|---------|-------|-----|----------|
| 750.00 | 21.98 | 525 | |
| 300.00 | 18.75 | 450 | |
| 1050.00 | 40.73 | 975 | 1,100.38 |

[fol. 1118]

1145

Rawlings

| | | | |
|------|----|--------|--------|
| Apr | 11 | 109388 | 109388 |
| May | 1 | 109388 | 109388 |
| June | 1 | 109388 | 109388 |
| July | 1 | 109388 | 109388 |
| Aug | 1 | 109388 | 109388 |
| Sept | 1 | 109388 | 109388 |
| Oct | 1 | 109388 | 109388 |
| Nov | 1 | 109388 | 109388 |
| Dec | 1 | 109388 | 109388 |
| 1926 | | | |
| Jan | 1 | 110038 | 110038 |
| Feb | 1 | 110038 | 110038 |
| Mar | 1 | 110038 | 110038 |
| Apr | 1 | 110038 | 110038 |
| May | 1 | 110038 | 110038 |
| June | 1 | 110038 | 110038 |

[fol. 1119]

1957

Jan

| | | | | | |
|--------------|--------|-------|-----|--------|---------|
| Duncan | 825.00 | 21.88 | 535 | 852.23 | |
| Nicholls M B | 300.00 | 18.75 | 450 | 323.25 | 1178.38 |

Inc Rule to 22

| | | | | | |
|--------------|--------|-------|-----|--------|---------|
| Duncan J E | 825.00 | 21.88 | 700 | 853.88 | |
| Nicholls M B | 300.00 | 18.75 | 600 | 324.75 | 1178.63 |

[fol. 1120]

1147

1120

Rawlings

| | | | |
|------------|---------|--------|--------|
| July 15 | | 110038 | |
| 19 | | | 110038 |
| Aug 1 | | 110038 | |
| 20 | | | 110038 |
| Sept 1 | | 110038 | |
| 14 | | | 110038 |
| Oct 1 | | 110038 | |
| 10 | | | 110038 |
| Nov 1 | | 110038 | |
| 15 | | | 110038 |
| Dec 1 | | 110038 | |
| 7 | | | 110038 |
| 1957 Jan 1 | | 117538 | |
| 14 | | | 117538 |
| Feb 1 | circ me | 345 | |
| 13 | | 117863 | |
| Mar 1 | | 235726 | 118188 |
| 5 | | 117863 | 235 |
| Apr 1 | | | 117863 |
| 15 | | 117863 | |
| May 1 | | 117863 | 117863 |
| 13 | | | 117863 |
| June 1 | | 117863 | |
| 24 | | | 117863 |
| July 1 | | 117863 | |
| 15 | | | 117863 |
| Aug 1 | | 117863 | |
| 8 | | | 117863 |
| Sept 1 | | 117863 | |
| 13 | | | 117863 |
| Oct 1 | | 117863 | |
| 14 | | | 117863 |

[fol. 1121]

1951

14-58

R.U.I.C. Increased from 2% to 2½%

1-1-58

Nichols increased to \$350

21182

875

Dunsan

825

21182

875

123626

[Vol. 1122]

1959
1-1-59

Quic Increased to 3%
Nicholls

Duncan

350-
2188
1050

38238

38238

825-
2188

1050

83738

123976

4-1-59

Duncan cut to \$350
Nicholls - same

350-

2188

1050

350-

2188

1050

76476

[fol. 1124]

1151

Rawlings - 1959

1959

Jan 1
 Feb 12
 March 11
 April 13

1959
 Transferred to
 new book

123976

123626

123976
247952124326
247052

123976

123976

76476

[fol. 1125]

1152

1125

74

Salaries

| 1954 | | | | | | |
|------|--------------|-----------------------------------|--------|-------|------|--------|
| 71 | Geo. H. King | 250.00 | - | - | | |
| | Apr. | 250 | | | | |
| | May | 250 | | | | |
| | June | 250 | | | | |
| | July | | | | | |
| | Aug. | 250 | | | | |
| | Sept. | 250 | | | | |
| | Oct. | 250 | | | | |
| | Nov. | 1-15 Inc 17.50 16-30 Inc 17.50 | 272.50 | 21.88 | 1.75 | 386.03 |
| | Dec. | 475 | 21.88 | 1.75 | | 498.63 |
| 1955 | | | | | | |
| | Jan. | Same | | | | 498.63 |
| | Feb. | | | | | 498.63 |
| | Mar. | Same | | | | 498.63 |
| | Apr. | | | | | 498.63 |
| | May | | | | | 498.63 |
| | June | | | | | 498.63 |
| | July | | | | | 498.63 |
| | Aug. | | | | | 498.63 |
| | Sept. | | | | | 498.63 |
| | Oct. | | | | | 498.63 |
| | Nov. | | | | | 498.63 |

Ret. to RR 1/24.75 off payroll 24

Pol. 11261

1153

Payne H. Ratner

| 1954 12/31/53 | | | |
|---------------|-------------|--------|--------|
| Mar | | 250 - | |
| 4/6 | | 250 | |
| Apr | | 111 | 500 - |
| 4/6 | | 250 - | |
| May | | | 250 - |
| 5 | | 250 | |
| June | | | 275 - |
| 12 | | | |
| July | Legislative | | 190 - |
| | | 250 - | |
| Aug | | | 215 - |
| Sept | | 250 - | |
| | | | 200 - |
| Oct | | 250 | |
| | | | 235 - |
| Nov | | 356.00 | |
| | | | 28.63 |
| Dec | | 49863 | |
| | | | 27107 |
| 1955 | | 263470 | 263470 |
| Jan | | 49863 | |
| 13 | | | 49863 |
| Feb | | 49863 | |
| 16 | | | 49863 |
| Mar | | 49863 | |
| 8 | | | 49863 |
| Apr | | 49863 | |
| 11 | | | 49863 |
| May | | 49863 | |
| 9 | | | 49863 |

[fol. 1127]

Retired

| 53 | | | | | |
|------|----|--|------------------|-------|--|
| June | 1 | | 49863 | | |
| | 7 | | | 49863 | |
| July | 1 | | 49863 | | |
| | 13 | | | 49863 | |
| Aug | 1 | | 49863 | | |
| | 8 | | | 49863 | |
| Sept | 1 | | 49863 | | |
| | 7 | | | 49863 | |
| Oct | 1 | | 49863 | | |
| | 17 | | | 49863 | |
| Nov | 1 | | 49863 | | |
| | 7 | | | 49863 | |
| Dec | 1 | | 49863 | | |
| Jan | 27 | | | 20036 | |

| 1956 | | | | | | | |
|---------|-------------------------------|---------|-----------|-------|--|---------|---------|
| Jan. | G J Kerat | 358.00 | 21.98 | 5.25 | | | |
| | Th. M Verbon | 312.00 | 21.98 | 5.25 | | | |
| | J A Vanning | 221.80 | 13.86 | 233 | | | |
| | | 921.80 | 57.62 | 13.83 | | 993.25 | |
| 6/1/56 | G A Mc Nuland | 352.00 | 21.98 | 5.25 | | 1370.38 | |
| 9/1/57 | Mc N. transferred to Lush | | Cancelled | | | 993.25 | |
| 1/1/57 | Reid C. inc. to 270 | | | | | | |
| | G J Kerat | 350.00 | 21.98 | 7.00 | | | |
| | Th. M Verbon | 353.00 | 21.98 | 7.00 | | | |
| | J A Vanning | 221.80 | 13.86 | 443 | | | |
| | G A Mc Nuland | 352.00 | 21.98 | 2.00 | | 1376.73 | |
| | | 1271.80 | 79.50 | 25.43 | | | |
| 2/1/57 | Verbon inc. to 500 | 20.00 | | | | 1576.73 | 1/1/57 |
| 4/1/57 | " inc. to 500 | 147.80 | | | | | |
| | | 1721.90 | | | | 1526.73 | 4/1/57 |
| 5/1/57 | Mc N. inc. to 500 | 103.00 | | | | 1676.73 | 5/1/57 |
| | | 71.80 | | | | | |
| 7-1-57 | Mc Nuland transferred to Lush | | | | | 528.98 | |
| | | | | | | 1147.85 | 7/1/57 |
| 11-1-57 | Verbon taken off payroll | | | | | | |
| 11-1-57 | Vanning - inc. to 321.80 | | 20.12 | 643 | | | |
| | Kerat - same | 352.00 | 21.98 | 7.00 | | | |
| | | 671.80 | 42.10 | 1343 | | 1272.38 | 11-1-57 |

[Vol. 1129]

Rees E.A.

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1958

| | | | | | | | |
|-----|----|---------------------------------|-------|------|-----|--|--------|
| 1-1 | 58 | R.U.I.C. Inc. from 2% to 2 1/2% | | | | | |
| 1-1 | 58 | Barat | 350- | 2188 | 875 | | |
| | | Zelmering | 32180 | 2012 | 804 | | 73059 |
| 2-1 | 58 | L.W. Oney | 350- | 2188 | 875 | | 111122 |
| 3-1 | 58 | Oney increased to | 400- | 2188 | 875 | | 116122 |
| 5-1 | 58 | Oney taken off payroll | | | | | 73059 |

[col. 1181]

Rerat

| | | | |
|-------|---|--------|--------|
| May | 6 | 167473 | 167373 |
| June | 1 | 167673 | 167673 |
| July | 1 | 114785 | 114785 |
| Aug | 1 | 114785 | 114785 |
| Sept | 1 | 114785 | 114785 |
| Oct | 1 | 114785 | 114785 |
| Nov | 1 | 72723 | 71897 |
| Dec | 1 | 72723 | 826 |
| 1958 | 4 | 72723 | 72723 |
| Jan | 1 | 73059 | 72723 |
| Feb | 1 | 111122 | 109981 |
| Mar | 1 | 116122 | 117563 |
| April | 1 | 116122 | 116158 |
| May | 1 | 73059 | 73059 |
| June | 1 | 73059 | 73050 |
| July | 1 | 73059 | 73050 |

Feb 11 1959

1159

1/32

| | | | | | |
|--------|------------------------|-------|------|------|-------|
| 1-1-59 | Penning off Payroll | 32180 | 2012 | 804 | 34996 |
| | R.U.C. increased to 3% | | | | |
| | Perat | 350 | 2188 | 1050 | 38238 |

[fol. 1133]

1160

Kurat

| 1958 | | | | | | | | | |
|-------|----|--|--|---------|--|-------|--|--|--|
| Aug | 1 | | | 73059 | | | | | |
| | 11 | | | | | 73077 | | | |
| Sept | 1 | | | 73059 | | | | | |
| | 4 | | | | | 73059 | | | |
| Oct | 1 | | | 73059 | | | | | |
| | 6 | | | | | 73057 | | | |
| Nov | 1 | | | 73059 | | | | | |
| | 4 | | | | | 73057 | | | |
| Dec | 1 | | | 73059 | | 73057 | | | |
| | 5 | | | 1000000 | | 73057 | | | |
| 1959 | | | | | | | | | |
| Jan | 1 | | | 38238 | | | | | |
| Feb | 1 | | | 38238 | | | | | |
| | 9 | | | | | 38063 | | | |
| | 16 | | | | | 38413 | | | |
| March | 1 | | | 38238 | | | | | |
| | 9 | | | 114714 | | 38238 | | | |

1959
Transferred to
New Book

[fol. 1134]

1134

Salaries

1954

R. T. Miller

400.00 18.75 150

N. N. Tingle

400.00 18.75 150

840.50

Feb. Same

Mar

Apr

May

June

July

Aug "single con apd full month

Sept R. T. Miller

400.00 28.14 235

Tingle

nothing 6.96

50 add to

400.00 34.80

275

437.15

Oct

Miller

400.00 28.88

175

Tingle

270.97 18.75

135

470.97

362.6

3.10

710.33

Nov.

Miller

400.00 28.88

175

Tingle

400.00 28.88

175

847.26

800.00

437.6

3.50

Dec

Miller

400.00 28.88

175

Tingle

400.00 28.88

175

800.00

437.6

3.50

847.26

[fol. 1135]

1162

1162

B. M. Savage

| Bal 12/31/0 - credit | | 5043- | |
|----------------------|-------------------|--------|--------|
| Jan | | 84050 | |
| Feb | | 84050 | |
| Mar | | 84050 | |
| Apr | | 84050 | |
| May | | 84050 | |
| June | | 84050 | |
| July | | 84050 | |
| June 24 | | 168100 | |
| Aug | | 84050 | |
| Sept | adjust acct conv, | 43725 | |
| Sept 27 | | 42025 | |
| Oct | | 71033 | |
| Oct 14 | | 73776 | |
| Nov | | 84726 | |
| Dec | | 199574 | 83673 |
| 2 | | 84726 | 179474 |
| | | | 84726 |

[fol. 170]

| 195 | | | | | | | |
|------|---------|-----|------|-----|--------|--|--|
| Jan | Muller | 400 | 2188 | 175 | 42363 | | |
| Feb | Tringle | 400 | 2188 | 175 | 42363 | | |
| | Same | | | | 84726 | | |
| Mar | Same | | | | 84726 | | |
| Apr | Same | | | | 84726 | | |
| May | Same | | | | 84726 | | |
| June | Same | | | | 84726 | | |
| July | Same | | | | 84726 | | |
| Aug | Same | | | | 84726 | | |
| Sept | Same | | | | 84726 | | |
| Oct | | | | | 84726 | | |
| Nov | | | | | 84726 | | |
| Dec | | | | | 84726 | | |
| 1956 | | | | | | | |
| Jan | Muller | 400 | 2188 | 175 | 42363 | | |
| | Tringle | 500 | 2188 | 175 | 42363 | | |
| | Muller | 400 | 2188 | 175 | 42363 | | |
| | | | | | 100426 | | |

Savage

1955

| | | | |
|--------|--------|--------|--------|
| Jan | 84726 | | |
| Feb | 84726 | 508352 | |
| Mar | 84726 | | |
| Apr | 84726 | 508352 | 254178 |
| May | 84726 | | |
| June | 84726 | | |
| July | 84726 | 508352 | |
| Aug | 84726 | | |
| Sept 1 | 84726 | 254178 | |
| Oct 1 | 84726 | 254178 | |
| Nov 1 | 84726 | | |
| Dec 1 | 84726 | | |
| Dec 14 | 84726 | 254178 | |
| 1956 | 254178 | 254178 | |
| Jan 3 | 52213 | 31478 | |
| Feb 1 | 100426 | | |
| Jan 23 | | 2100 | |
| 15 | | 286278 | |
| Mar 1 | 200352 | 602456 | |
| Apr 1 | 100426 | | |
| May 1 | 100426 | | |
| June 1 | 401704 | 200552 | |
| July 1 | 100426 | 100426 | |
| Aug 2 | 100426 | | |
| Aug 1 | 100426 | 200852 | |
| | 100426 | | |

[fol. 1135]

| 1957 | | | | | |
|--------|---------------------------------|--------|------|-----|--------|
| Jan | Tangle | 500.00 | 2188 | 525 | |
| | Miles | 450.00 | 2188 | 525 | 100426 |
| | R.H.I.C. increased to 3% 1/1/57 | | | | |
| | Tangle | 500.00 | 2188 | 700 | |
| | Miles | 450.00 | 2188 | 700 | 100776 |
| 3/1/58 | Tangle | 350.00 | 2188 | 7- | |
| | Miles | 350.00 | 2188 | 7- | |
| | | 700.00 | 4376 | 14- | 75776 |
| 1958 | | | | | |
| 1-1-58 | R.H.I.C. Inc from 2% to 2 1/2% | | | | |
| | Tangle | 350.00 | 2188 | 825 | |
| | Miles | 350.00 | 2188 | 875 | 36126 |

Savage

| 26 | | | | | |
|-------|----|--------|--------|--------|----|
| Sept | 1 | | 100426 | | |
| | 17 | | | 100426 | |
| Oct | 1 | | 100426 | | |
| | 1 | | | 200852 | 26 |
| Nov | 1 | | 100426 | | |
| Dec | 1 | | 100426 | | |
| 1957 | 10 | | | 100426 | |
| Jan | 1 | Red me | 100426 | | |
| | | | 350 | | |
| Jan | 28 | | | 402576 | |
| Feb | 1 | | 100776 | 21 - | |
| Mar | 1 | | 75776 | | |
| Apr | 1 | | 75776 | | |
| May | 1 | | 75776 | | |
| June | 1 | | 75776 | | |
| July | 1 | | 75776 | | |
| Aug | 5 | | | 604612 | |
| Aug | 1 | | 75776 | 127328 | |
| Sept | 1 | | 75776 | | |
| Oct | 1 | | 75776 | 73192 | |
| | 14 | | 75776 | 151552 | |
| Nov | 1 | | 75776 | | |
| Dec | 1 | | 75776 | 733536 | |
| | 13 | | | 75776 | |
| Jan | 1 | | 76126 | | |
| | 16 | | | 152252 | |
| Feb | 1 | | 76126 | | |
| March | 1 | | 76126 | | |
| | 3 | | | 152252 | |
| April | 1 | | 76126 | | |
| May | 1 | | 76126 | | |
| | 12 | | | 76126 | |

[fol. 1140]

| | | | | | |
|------|-----------------------|----------------|--------------|--------------|-------|
| 1959 | Triple Miller | 350 - 350 - | 2188 2188 | 1050 1050 | 76476 |
| H-59 | Price increased to 3% | | | | |

Savage

1958

June 1
12July 1
8Aug 1
21Sept 1
1Oct 1
1Nov 1
1Dec 1
22

76126

76126

76126

76126

76126

152252

76126

76126

76126

76126

48512

208305

91352

1959

1959
Transferred
to New Book

Jan 1

Feb 1

March 1
9

76476

76476

76476

152952

[fol. 1142]

See Hymn.

[illegible]

1957

John A. Clunker
Salary
R R
Rule

1/1/57

Clunker on leave for 3 mos.

1/1/57

McNurlan 357.00

UAC 290 - 1/1/57

1-1-57

McNurlan

400 -

2198

525

700

427 13

428 88

428 88

21 88

5.25

377.75

Cancelled

400 -

2198

700

428 88

5776

[fol. 1144]

1171

Lusk. Philip B.

| | | | | |
|------|----|--------|-------|------------|
| Jan | | 42713 | | |
| 12 | | | 1000- | |
| Feb | 1 | 42713 | | |
| Mar | 1 | 85422 | | cr. 14574 |
| Apr | 20 | 42713 | | |
| May | 27 | 42713 | 1000- | cr. 70852 |
| June | 1 | 170852 | 1000- | 29148 cr |
| July | 1 | 42713 | | |
| Aug | 18 | 213565 | 1000- | cr. 86435 |
| Sept | 1 | 42713 | 3000 | cr. 43722 |
| Oct | 1 | 42713 | | |
| Nov | 1 | 42713 | 3000 | cr. 1009 |
| Dec | 26 | 241704 | 3500 | cr. 8296 |
| 1957 | | 42713 | | |
| Jan | 1 | 384417 | 3500 | |
| Feb | 1 | 42713 | | |
| Mar | 10 | 427130 | 500 | |
| Apr | 1 | 42713 | 4000 | |
| May | 1 | | 500 | |
| June | 1 | 42713 | 4800 | 32550 |
| July | 1 | 512650 | 32550 | |
| Aug | 1 | 42713 | | |
| Sept | 1 | 42713 | | |
| Oct | 1 | 42713 | | |
| Nov | 1 | 42713 | | |
| Dec | 1 | 42713 | | |
| 1958 | | 42713 | | |
| Jan | 11 | 42888 | 1000- | |
| May | 1 | 42888 | | |
| June | 1 | 42888 | | |
| July | 24 | 128664 | 1200- | 71336 |
| Aug | 1 | 85776 | 2000- | |
| Sept | 1 | 85776 | 2000- | 1002460 cr |
| Oct | 15 | 300176 | 1000- | |
| Nov | 1 | 85776 | | |
| Dec | 1 | 85776 | | |
| 1959 | | 85776 | | |
| Jan | 1 | 85776 | | |
| Feb | 1 | 85776 | | |
| Mar | 1 | 85776 | | |
| Apr | 1 | 85776 | | |
| May | 1 | 85776 | | |
| June | 1 | 85776 | | |
| July | 1 | 85776 | | |
| Aug | 1 | 85776 | | |
| Sept | 1 | 85776 | | |
| Oct | 1 | 85776 | | |
| Nov | 1 | 85776 | | |
| Dec | 1 | 85776 | | |
| 1960 | | 85776 | | |
| Jan | 1 | 85776 | | |
| Feb | 1 | 85776 | | |
| Mar | 1 | 85776 | | |
| Apr | 1 | 85776 | | |
| May | 1 | 85776 | | |
| June | 1 | 85776 | | |
| July | 1 | 85776 | | |
| Aug | 1 | 85776 | | |
| Sept | 1 | 85776 | | |
| Oct | 1 | 85776 | | |
| Nov | 1 | 85776 | | |
| Dec | 1 | 85776 | | |

[fol. 1145]

| 1958 | | | | | |
|--------|---------------------------------|------|------|------|-------|
| 1-1-58 | R.U.I.C. Inc. from 2% to 2 1/2% | | | | |
| 1-7-58 | Clinkenbeard | 400- | 2188 | 875 | 86126 |
| | McNulan | 400- | 2188 | 875 | 86126 |
| 1959 | R.U.I.C. increased to 3% | | | | |
| | Clinkenbeard | 400- | 2188 | 1050 | |
| | McNulan | 400- | 2188 | 1050 | 86476 |
| 4-1-59 | Clinkenbeard cut to | 350- | 2188 | 1050 | |
| | McNulan cut to | 350- | 2188 | 1050 | 76476 |

[fol. 1146]

1173

| | | | |
|-------------|--|-------|--------|
| 1957 | | 51250 | 1200 - |
| Dec 1 | | 85776 | |
| Oct 30 | | | 2000 - |
| Jan 15 1958 | | | 143310 |
| Jan 1 1958 | | 86126 | |
| Feb 1 | | 86126 | |
| March 1 | | 86126 | |
| 6 | | | 1500 - |
| April 1 | | 86126 | |
| May 1 | | 86126 | |
| June 1 | | 86126 | |
| 13 | | | 1500 - |
| 30 | | | 1500 - |
| 30 | | | 130630 |
| July 1 | | 86126 | |
| Aug 1 | | 86126 | |
| Sept 1 | | 86126 | |
| 8 | | 23 - | |
| 8 | | | 23 - |
| 16 | | | 1000 - |
| Oct 1 | | 86126 | |
| 6 | | | 1500 - |
| 27 | | | 1000 - |
| 28 | | | 108282 |
| Nov 1 | | 86126 | |
| Dec 1 | | 86126 | |
| | | 54 - | 54 - |
| 1959 | | | |
| Credits 158 | | | 54 - |
| Jan 1 | | 86126 | |
| Feb 1 | | 86476 | |
| March 1 | | 86476 | |
| April 1 | | 76476 | |

Supplies

1959
Transferred To
New Book

[fol. 1147]

| 1957 | | | | | | | | | |
|------|----|-------------------------------|--------|-------|------|--|--|--------|--------|
| Jan. | | R. J. Calhoun | 400.00 | 21.88 | 5.25 | | | | |
| | | T. B. Yaeger | 400.00 | 21.88 | 5.25 | | | | |
| Sept | | R. J. Calhoun | 500.00 | 21.88 | 5.25 | | | | |
| Aug | 1 | T. B. Yaeger | 100.00 | 21.88 | 5.25 | | | 105426 | |
| | | Rude mts 27- 4/1/57 | | | | | | | |
| Jan | 1 | R. J. Calhoun | 500.00 | 21.88 | 7.00 | | | | |
| | | T. B. Yaeger | 500.00 | 21.88 | 7.00 | | | 105776 | |
| June | 16 | Collins for last half of June | | | | | | 27063 | |
| June | 15 | R. J. Calhoun removed (2 m) | 250.00 | 15.63 | 5.00 | | | 19951 | 107014 |
| July | 1 | E. A. Starnes | 150.00 | 9.37 | 2.00 | | | | |
| | | T. B. Yaeger | 500.00 | 21.88 | 7.00 | | | | |
| June | 16 | E. M. Collins | 500.00 | 21.88 | 7.00 | | | 122013 | |

[fol. 1148]

Yager, Carl L.

| | | | |
|------|----|--------|--------|
| Jan | 1 | 88426 | 85426 |
| | 3 | | 85426 |
| Feb | 1 | 85426 | 85426 |
| | 2 | | 85426 |
| Mar | 1 | 85426 | 85426 |
| | 2 | | 85426 |
| | 29 | | 85426 |
| Apr | 1 | 85426 | |
| May | 1 | 85426 | 85426 |
| Apr | 30 | | 85426 |
| Jun | 1 | 85426 | 85426 |
| May | 28 | 85426 | 85426 |
| July | 1 | 85426 | 85426 |
| | 2 | 85426 | 85426 |
| Aug | 1 | 105426 | 85426 |
| | 29 | | 105426 |
| Sept | 1 | 105426 | 105426 |
| | 10 | | 105426 |
| Oct | 1 | 105426 | 105426 |
| Sept | 17 | 105426 | 105426 |
| Nov | 1 | 105426 | 105426 |
| | 12 | | 105426 |
| Dec | 1 | 105426 | 105426 |
| | 28 | | 105426 |
| 1957 | | | |
| Jan | 1 | 105426 | 105426 |
| | 18 | | 105426 |
| Feb | 1 | 350 | |
| | | 105776 | |
| | | 211552 | |
| Mar | 1 | 105776 | 106126 |
| | 22 | | 218552 |
| | | | 105776 |

Dns. Ludd Jan

[fol. 1149]

[illegible]

Yager, Austin Chyna

| | | | |
|-------|----|--------|--------|
| April | 6 | 105716 | 105716 |
| | 25 | | |
| May | 1 | 105776 | 105776 |
| | 17 | | 105776 |
| June | 1 | 79951 | 79951 |
| July | 24 | | |
| June | 16 | 27063 | |
| July | 1 | 122013 | |
| Aug | 1 | 122013 | |
| | 26 | 271089 | 271089 |
| Sept | 1 | 122013 | |
| | 16 | | 122013 |
| Oct | 1 | 122013 | |
| Nov | 1 | 122013 | |
| | 20 | | 244026 |
| Dec | 1 | 122013 | |
| Jan | 6 | | 122013 |
| 1958 | | | |
| Jan | 1 | 122438 | |
| Feb | 1 | 122438 | |
| | 19 | | 244876 |
| March | 1 | 122438 | |
| | 10 | | 122438 |
| April | 1 | 62532 | |
| | 23 | | 62532 |
| | | 122438 | 122438 |

[fol. 1151]

[illegible]

Yager and Yager

1959

June 1

1959
Transferred
to new Book

38238

[fol. 1153]

1180

1453

[illegible]

Hildebrand. Glefton

| 1956 | | | | | |
|------|-----|------------|--------|--------|--|
| Apr | 1 | | 52713 | | |
| | 11 | | | 52713 | |
| May | 1 | | 105426 | | |
| Apr | 27 | | | 105426 | |
| June | 1 | | 105426 | | |
| May | 28 | | | 105426 | |
| July | 1 | | 105426 | | |
| June | 28 | | | 105426 | |
| Aug | 1 | | 105426 | | |
| July | 26 | | | 105426 | |
| Sept | 1 | | 105426 | | |
| Aug | 26 | | | 105426 | |
| Oct | 1 | | 105426 | | |
| Sept | 26 | | | 105426 | |
| Nov | 1 | | 105426 | | |
| Oct | 29 | | | 105426 | |
| Dec | 1 | | 105426 | | |
| Nov | 30 | | | 105426 | |
| 1957 | | | | | |
| Jan | 1 | | 105426 | | |
| | 2 | | | 105426 | |
| Jan | | Risk - Jan | 350 | | |
| Feb | 1 | | 105776 | | |
| Jan | 31 | | | 105426 | |
| Feb | 27 | | 211552 | 106476 | |
| Mar | 1 | | 105776 | | |
| | 28 | | 217328 | 105776 | |
| Apr | 1 | | 105776 | | |
| | 29 | | 423104 | 105776 | |
| May | 1 | | 105776 | | |
| | 028 | | | 105776 | |
| June | 1 | | 105776 | | |

[fol. 115v]

| | | | | | |
|-------------|----|---------------------------------|--------|--------|--------|
| 1957 | | | | | |
| June | 26 | | 105776 | | |
| July | 1 | | 105776 | | |
| | 27 | | | 105776 | |
| Aug | 1 | | 105776 | | |
| Sept | 1 | | 105776 | | |
| | 6 | | | 105776 | |
| Oct | 1 | | 105776 | | |
| Sept | 30 | | | 105776 | |
| Nov | 1 | | 105776 | | |
| Oct | 30 | | | 105776 | |
| Dec | 1 | | 105776 | | |
| Nov | 27 | | | 105776 | |
| <u>1158</u> | | | | | |
| 1-1 | 58 | R.U.I.C. Inc. from 2% to 2 1/2% | | | |
| 1-1 | 58 | Berkhold | 500- | 2188 | 975 |
| | | Dragmire | 500- | 2188 | 975 |
| | | | | | 106126 |

[fol. 1156]

1183

117

1871-1872

1184

| | | | | | |
|--------|--|--------------|--------------|--------------|--------|
| 1959 | R.U.I.C. increased to 3% | | | | |
| 1-1-59 | Bockhold Dragmire | 500- 500- | 2188 2188 | 1050 1050 | 106476 |
| 4-1-59 | Reduced salaries Bockhold Dragmire | 350- 350- | 2188 2188 | 1050 1050 | 76476 |

[fol. 1158]

1185

Hildebrand - 1959

119

Jan 1
5
Feb 1
Jan 30
Feb 27
March 1
30
April 1

1959
Transferred to
New Book

106476

106126

106476
21 29 52

106826
21 29 52

106476

106476

106476

76476
~~106476~~

[Vol. 1159]

1186

1159

| 1952 | | | | | |
|-------|----|------------------|---|--------|-------------------------|
| Jan | 3 | Hildebrand | ✓ | 106126 | * included in U. Reilly |
| | 3 | Mc Elroy | ✓ | 75776 | + figures for 1957 .0 |
| | 3 | Brandon | ✓ | 225- | * 1957 |
| | 6 | Yaeger | ✓ | 122013 | - \$7 |
| | 6 | Rerat | ✓ | 72723 | |
| | 10 | Henslee | ✓ | 5000- | |
| | 13 | Rawlings | ✓ | 123413 | |
| | 15 | Lush | ✓ | 143320 | -57 |
| | 16 | Savage | ✓ | 152252 | |
| | 29 | Hildebrand | ✓ | 106126 | |
| | 31 | Brandon | ✓ | 225- | |
| Feb | 7 | Rerat | ✓ | 109981 | |
| | 10 | Rawlings | ✓ | 123939 | |
| | 10 | Mc Elroy | ✓ | 53111 | |
| | 19 | Yaeger | ✓ | 244876 | |
| | 20 | Henslee | ✓ | 6000- | |
| | 24 | Mc Elroy | ✓ | 950- | |
| | 26 | Hildebrand | ✓ | 106126 | |
| March | 3 | Brandon | ✓ | 225- | |
| | 3 | Savage | ✓ | 152252 | |
| | 6 | Lush | ✓ | 1500- | |
| | 10 | Yaeger | ✓ | 122438 | |
| | 4 | Rerat | ✓ | 117563 | |
| | 14 | Rawlings | ✓ | 123626 | |
| | 14 | Mc Elroy | ✓ | 72442 | |
| | 19 | Henslee | ✓ | 600000 | |
| | 24 | Mc Elroy | ✓ | 475- | |
| | 31 | Brandon | ✓ | 225- | |
| | 31 | Trip (C.R. Male) | ✓ | 100- | |
| April | 14 | Rerat | ✓ | 116158 | |
| | 17 | Rawlings | ✓ | 123626 | |

Cost Book

| 1958 | | | | |
|-------|------|------------|---|-------------------|
| April | 8 | Mc Elroy | ✓ | 748 ⁹⁸ |
| | 23 | Yager | ✓ | 62532 |
| | 24 | Henslee | ✓ | 6000- |
| | 28 | Mc Ellynn | ✓ | 925- |
| May | 2 | Brandon | ✓ | 225- |
| | 5 | Rerat | ✓ | 73059 |
| | 8 | Hildebrand | ✓ | 106126 |
| | 8 | Hildebrand | ✓ | 106126 |
| | 12 | Rawlings | ✓ | 123626 |
| | ✓ 12 | Savage | ✓ | 76126 |
| | 23 | Henslee | ✓ | 6000- |
| | 27 | Hildebrand | ✓ | 106126 |
| June | 2 | Brandon | ✓ | 225- |
| | 3 | Mc Elroy | ✓ | 76126 |
| | 5 | Rerat | ✓ | 73050 |
| | 6 | Mc Ellynn | ✓ | 750- |
| | ✓ 12 | Rawlings | ✓ | 123626 |
| | ✓ 12 | Savage | ✓ | 76126 |
| | 13 | Lush | ✓ | 1500- |
| | 13 | Mc Elroy | ✓ | 72360 |
| | 18 | Henslee | ✓ | 6000- |
| | 30 | Hildebrand | ✓ | 106126 |
| | 30 | Lush | ✓ | 1500- |
| | 30 | Lush | ✓ | 130630 |
| | 30 | Rerat | ✓ | 73050 |
| July | 2 | Brandon | ✓ | 225- |
| | 8 | Savage | ✓ | 76126 |
| | 18 | Rawlings | ✓ | 123626 |
| | 28 | Mc Ellynn | ✓ | 600- |

[fol. 1161]

1183

[fol. 1161]

1185

[fol. 1162]

| 1958 | | | | |
|---------------------------|----|-------------------------|---|----------|
| Nov. | 21 | Dunn (McElroy) | ✓ | 181686 |
| Dec | 1 | Hildebrand | ✓ | 106126 |
| | 1 | Brandon | ✓ | 225- |
| | 5 | Rerat | ✓ | 73057 |
| | 15 | Rawlings | ✓ | 123626 |
| | 18 | Dunn | ✓ | 74857 |
| ✓ | 22 | Savage | ✓ | 228378 |
| Jan | 9 | Dunn | ✓ | 12065426 |
| 1959 | | | | |
| Transferred to New Ledger | | | | |
| Jan | 5 | Hildebrand | ✓ | 106126 |
| | 5 | Brandon | ✓ | 225- |
| | 12 | Rawlings | ✓ | 123626 |
| | 12 | McEllyn | ✓ | 975- |
| | 21 | Henslee & Henslee (58) | ✓ | 586818 |
| | 30 | Hildebrand | ✓ | 106826 |
| Feb | 3 | Brandon | ✓ | 225- |
| | 9 | Rerat | ✓ | 38063 |
| | 11 | Rawlings | ✓ | 124326 |
| | 16 | Rerat | ✓ | 38413 |
| | 26 | Henslee | ✓ | 1746539 |
| | 27 | Hildebrand | ✓ | 106476 |
| March | 4 | Brandon | ✓ | 225- |
| | 9 | Savage | ✓ | 162952 |
| | 9 | Rerat | ✓ | 38238 |
| | 13 | Henslee, Monck & Murray | ✓ | 273552 |
| | 13 | Henslee, Monck & Murray | ✓ | 145226 |
| | 13 | Rawlings | ✓ | 123976 |
| | 16 | McEllyn | ✓ | 950- |

o. Cash Book

[illegible]

January, 1958

| | | | | | |
|---------|-------------------------------|-------|-------|------|--------|
| 1-1-58 | Beck | 250- | 1563 | 625 | |
| | Benner | 150- | 938 | 375 | |
| | Bush | 375- | 2188 | 875 | |
| | Crago | 500- | - | - | |
| | Hej | 250- | - | - | |
| | Halligan | 500- | 2188 | 875 | |
| | Howard | 500- | 2188 | 875 | |
| | McNew | 150- | - | - | |
| | More | 600- | 2188 | 875 | |
| | Moss | 500- | 2188 | 875 | |
| | Patmore | 250- | 938 | 375 | |
| | Rodriggi | 500- | 2188 | 875 | |
| | Swiss | 400- | 2188 | 875 | |
| | Taylor | 500- | 2188 | 875 | |
| | Wible | 150- | - | - | |
| | | 5575- | 20973 | 8375 | 586818 |
| 1-1-58 | R.U.I. inc. from 2% to 2 1/2% | | | | |
| Feb. 24 | Bills paid \$500.00 | | | | |
| Mar. 1 | Patmore taken off payroll | 5325- | 20115 | 80- | 560505 |
| May 1 | Patmore back on salary | | | + | 586818 |

[fol. 1165]

Henslee

| 1958 | | | | | | | | | |
|-------|----|-----------------------------|---------|---------|---------|--|-----------------------|--|--|
| | | Balance as of Dec. 31, 1957 | | 406823 | | | | | |
| Jan | 10 | | | 5000 - | | | | | |
| Jan | 1 | | 586818 | | | | | | |
| Feb | 1 | | 586818 | | | | 519015 | | |
| | 24 | | 500 - | | | | | | |
| | 20 | | | 6000 - | | | | | |
| March | 1 | | 560805 | | | | 423197 | | |
| | 19 | | | 6000 - | | | | | |
| April | 1 | | 560505 | | | | 521692 | | |
| | 23 | | | 6000 - | | | 38813 | | |
| May | 1 | | 586818 | | | | | | |
| | 23 | | | 6000 - | | | | | |
| June | 1 | | 586818 | | | | 543542 | | |
| | 18 | | | 6000 - | | | | | |
| July | 1 | | 586818 | | | | | | |
| Aug | 1 | | 586818 | | 4105235 | | | | |
| Sept | 1 | | 586818 | | | | 586035 D.B. | | |
| Oct | 1 | | 586818 | | | | 72903 D.B. | | |
| Nov | 1 | | 586818 | | | | | | |
| | 18 | | | 6000 - | | | | | |
| Dec | 1 | Henslee & Henslee - ud | 6452372 | 4705833 | | | 1746539 | | |
| | | Feb. 26 1959. | 586818 | | | | | | |
| | | | | 1746539 | | | (Entered in new book) | | |

[fol. 1166]

| December | | Salaries as per preceding page | | | | 5868 18 |
|----------|--------------------------|--------------------------------|------|------|---------|---------|
| 12-31-58 | Banner taken off payroll | 150 - | 938 | 375 | 16313 | |
| 12-31-58 | Gray taken off payroll | 250 - | - | - | 250 - | |
| | | | | | 41313 | |
| 1-1-59 | R.U.C. increased 3% | | | | | |
| 1-1-59 | Salaries | | | | | |
| | Beck | 250 - | 1563 | 750 | | |
| | Bush | 375 - | 2188 | 1050 | | |
| | Craig | 500 - | - | - | | |
| | Halligan | 500 - | 2188 | 1050 | | |
| | Howard | 500 - | 2188 | 1050 | | |
| | McNew | 150 - | - | - | | |
| | Moore | 600 - | 2188 | 1050 | | |
| | Moss | 500 - | 2188 | 1050 | | |
| | Palmore | 250 - | 938 | 450 | | |
| | Radrizzi | 500 - | 2188 | 1050 | | |
| | Seiss | 400 - | 2188 | 1050 | | |
| | Taylor | 500 - | 2188 | 1050 | | |
| | Wible | 150 - | - | - | | |
| | | | | | 5471 05 | |
| 2-1-59 | taken off Payroll | | | | | |
| | Howard | 500 - | 2188 | 1050 | | |
| | Halligan | 500 - | 2188 | 1050 | | |
| | Moore | 600 - | 2188 | 1050 | | |
| | Wible | 150 - | - | - | | |
| | McNew | 150 - | - | - | | |
| | Beck | 250 - | 1563 | 750 | | |
| | | 2150 - | 8125 | 3900 | 227027 | |
| | Feb. Salaries | | | | 320078 | |
| 4-1-59 | Salaries Reduced | | | | | |
| | Bush | 375 - | 2188 | 1050 | | |
| | Craig | 350 - | - | - | | |
| | Moss | 350 - | 2188 | 1050 | | |
| | | (Total) | | | | |

[fol. 1167]

1194

Henslee & Henslee (11-22-58)

Dec 1958
Jan 21-59

Salaries

1959
Transferred to
New Book

Jan 1
Feb 1
March 1
13
13

586818

586818

547105
324078
320078

273552

145226
412778

1132261

[for 1168]

1195

1168

| 1959 | | | B | | | | |
|--------------|---------------------------|------|---|------|------|--|--|
| 4459 (cont.) | Patmore (Full Deductions) | 350- | | 2188 | 1050 | | |
| | Radriggi | 350- | | 2188 | 1050 | | |
| | Suss | 350- | | 2188 | 1050 | | |
| | Taylor | 350- | | 2188 | 1050 | | |
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[fol. 1169]

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|--------|-------------------------------------|-------|------|-----|-------|
| 1-1-58 | R.U.I.C Increased from 2% to 2 1/2% | | | | |
| 1-1-58 | Salaries - Regular | | | | |
| | Thompson | 350 - | 2188 | 875 | |
| | Klein | 350 - | 2188 | 875 | 76126 |
| Jan | T.J. Thompson | 14113 | 382 | 353 | |
| | J.J. Klein | 350 - | 2188 | 875 | 53411 |
| Feb. | J.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 31613 | 1976 | 790 | 72442 |
| March | T.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 33871 | 2117 | 847 | 94838 |
| April | J.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 350 - | 2188 | 875 | 76126 |
| May | J.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 31538 | 1971 | 788 | 72360 |
| June | T.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 350 - | 2188 | 875 | 76126 |
| July | T.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 33871 | 2117 | 847 | 74898 |
| Aug | J.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 350 - | 2188 | 875 | 76126 |
| Sept | T.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 33871 | 2117 | 847 | 74898 |
| Oct | J.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 350 - | 2188 | 875 | 76126 |
| Nov | T.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 33871 | 2117 | 847 | 74898 |
| Dec | J.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 350 - | 2188 | 875 | 76126 |
| Jan | T.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 33871 | 2117 | 847 | 74898 |
| Feb | J.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 350 - | 2188 | 875 | 76126 |
| Mar | T.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 33871 | 2117 | 847 | 74898 |
| Apr | J.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 350 - | 2188 | 875 | 76126 |
| May | T.J. Thompson | 350 - | 2188 | 875 | |
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| June | J.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 350 - | 2188 | 875 | 76126 |
| July | T.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 33871 | 2117 | 847 | 74898 |
| Aug | J.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 350 - | 2188 | 875 | 76126 |
| Sept | T.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 33871 | 2117 | 847 | 74898 |
| Oct | J.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 350 - | 2188 | 875 | 76126 |
| Nov | T.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 33871 | 2117 | 847 | 74898 |
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| | J.J. Klein | 350 - | 2188 | 875 | 76126 |
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| | J.J. Klein | 33871 | 2117 | 847 | 74898 |
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| | J.J. Klein | 33871 | 2117 | 847 | 74898 |
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| | J.J. Klein | 33871 | 2117 | 847 | 74898 |
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| | J.J. Klein | 350 - | 2188 | 875 | 76126 |
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| | J.J. Klein | 33871 | 2117 | 847 | 74898 |
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| Mar | T.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 33871 | 2117 | 847 | 74898 |
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| | J.J. Klein | 350 - | 2188 | 875 | 76126 |
| May | T.J. Thompson | 350 - | 2188 | 875 | |
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| | J.J. Klein | 350 - | 2188 | 875 | 76126 |
| July | T.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 33871 | 2117 | 847 | 74898 |
| Aug | J.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 350 - | 2188 | 875 | 76126 |
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| | J.J. Klein | 33871 | 2117 | 847 | 74898 |
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| | J.J. Klein | 350 - | 2188 | 875 | 76126 |
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| | J.J. Klein | 350 - | 2188 | 875 | 76126 |
| Mar | T.J. Thompson | 350 - | 2188 | 875 | |
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| Apr | J.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 350 - | 2188 | 875 | 76126 |
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| June | J.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 350 - | 2188 | 875 | 76126 |
| July | T.J. Thompson | 350 - | 2188 | 875 | |
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| Aug | J.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 350 - | 2188 | 875 | 76126 |
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| | J.J. Klein | 350 - | 2188 | 875 | 76126 |
| Nov | T.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 33871 | 2117 | 847 | 74898 |
| Dec | J.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 350 - | 2188 | 875 | 76126 |
| Jan | T.J. Thompson | 350 - | 2188 | 875 | |
| | J.J. Klein | 33871 | 2117 | 847 | 74898 |
| Feb | J.J. Thompson | 350 - | 2188 | | |

McElroy

| 1958 | | | | | |
|-------|----|--|------------------|----------------------------|--------------|
| Jan | 1 | | 53411 | | |
| | 10 | | | 53411 | |
| Feb | 1 | | 72442 | | |
| March | 4 | | | 72442 | |
| March | 1 | | 74898 | | |
| April | 18 | | | 74898 | |
| April | 1 | | 76126 | | |
| May | 1 | | 72360 | | |
| June | 1 | | 76126 | | |
| | 3 | | | 76126 | |
| | 13 | | | 72360 | |
| July | 1 | | 74898 | | |
| | 31 | | | 76126 | |
| Aug | 1 | | 76126 | | |
| Sept | 2 | | | 74898 | |
| Sept | 1 | | 74898 | | |
| Oct | 1 | | 74898 | | |
| Sept | 1 | | 57330 | | |
| | | | 53411 | 633717 | |
| Oct | 1 | | | | |
| | 21 | | 48230 | | |
| Nov | 1 | | | 181686 (rem. 0.00 SAT Oct) | |
| Dec | 1 | | 74857 | | |
| | 18 | | 76126 | | |
| Jan | 9 | | | 74857 | |
| | | | 832730 | 736804 | (76126 6412) |
| | | | | 76126 | |

1959
In New Book

| | | | | | |
|------|----------------|-------|-------|-----|-------|
| Nov. | T. J. Thompson | 350 - | 22188 | 875 | |
| | J. J. Klein | 33833 | 2115 | 846 | 74857 |
| Dec | T. J. Thompson | 350 - | 2188 | 875 | |
| | J. J. Klein | 350 - | 2188 | 875 | 76126 |

[fol. 1172]

1199

LIBRARY
SUPREME COURT

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1963

No. 34

BROTHERHOOD OF RAILROAD TRAINMEN,
PETITIONER,

VIRGINIA, EX REL. VIRGINIA STATE BAR.

ON WRIT OF HABEAS CORPUS TO THE SUPREME COURT OF APPEALS
OF THE COMMONWEALTH OF VIRGINIA

PETITION FOR HABEAS CORPUS FILED NOVEMBER 9, 1963
HABEAS CORPUS GRANTED FEBRUARY 18, 1964

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1963

No. 34

BROTHERHOOD OF RAILROAD TRAINMEN,
PETITIONER,

vs.

VIRGINIA, EX REL. VIRGINIA STATE BAR.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF APPEALS
OF THE COMMONWEALTH OF VIRGINIA

INDEX

VOLUME IV

Original Print

Record from the Chancery Court of the City of
Richmond, Virginia—Continued

PLAINTIFF'S CHASE EXHIBITS—Continued

"F"—Ledger Book covering the years 1959-
1960 showing payments received by the
Department of Legal Counsel from Legal
Counsel and salary accounts of Regional
Investigators

1174 1200

"H"—1959 Deposit Slips showing contribu-
tions to the Department of Legal Counsel
by Regional Counsel in 1959

1206 1233

Letter from C. R. Maher to W. P. Kennedy
and W. J. Weil, dated April 9, 1959 and
handwritten note

1206a 1234

Letter from C. R. Maher to W. P. Kennedy
and W. J. Weil, dated April 20, 1959 with
attached telegram and check stub

1207 1235

Letter from C. R. Maher to W. P. Kennedy
and W. J. Weil, dated June 19, 1959
including pencil notation

1208 1236

Record from the Chancery Court of the City of
Richmond, Virginia—Continued.

PLAINTIFF'S CHASE EXHIBITS—Continued

"H"—Continued

| | | |
|--|------|------|
| Letter from C. R. Maher to W. P. Kennedy and W. J. Weil, dated June 29, 1959 and attached letter from Walter N. Murray to C. R. Maher, dated June 25, 1959, includ- ing pen notation | 1209 | 1239 |
| Letter from C. R. Maher to W. P. Kennedy and W. J. Weil, dated June 30, 1959 and attached letter from Edward B. Henslee, Jr., to C. R. Maher dated June 30, 1959 including pen notation | 1210 | 1241 |
| Letter from C. R. Maher to W. P. Kennedy and W. J. Weil dated July 14, 1959, in- cluding pen notation | 1211 | 1243 |
| Letter from C. R. Maher to W. P. Kennedy and W. J. Weil, dated July 16, 1959 with pen notation | 1212 | 1244 |
| Letter from C. R. Maher to W. P. Kennedy and W. J. Weil, dated August 19, 1959, attached check stub #M44086, attached bill dated August 10, 1959 from Bernard M. Savage to Brotherhood of Railroad Trainmen and attached paper headed "Sal- ary Account for the Year of 1959" in- cluding pen and pencil notations | 1213 | 1245 |
| Letter from C. R. Maher to W. P. Kennedy and W. J. Weil, dated September 25, 1959 and attached letter from Carl Yaeger, Jr. to C. R. Maher, dated September 22, 1959 including pen notations | 1214 | 1249 |
| Letter from C. R. Maher to W. P. Kennedy, and W. J. Weil, dated October 5, 1959 including pen notation | 1215 | 1251 |
| Letter from C. R. Maher to W. P. Kennedy and W. J. Weil, dated December 21, 1959, attached check stub #M49457, attached memorandum from W. P. Kennedy to Floyd Lehman, dated December 17, 1959 and five attached bills of Zelenko and Elkind to Brotherhood of Railroad Train- men all dated December 14, 1959 includ- ing all pen notations | 1216 | 1252 |

Record from the Chancery Court of the City of
Richmond, Virginia—Continued

PLAINTIFF'S CHASE EXHIBITS—Continued

"H"—Continued

Letter from C. R. Maher to W. P. Kennedy
and W. J. Weil, dated December 30, 1959
and attached letter of J. Murray Dunn to
C. R. Maher, dated December 22, 1959
including pen notations

1217 1260

"I"—1960 Deposit Slips showing contributions
to the Department of Legal Counsel by Re-
gional Counsel in 1960

1218 1262

Letter from C. R. Maher to W. P. Kennedy
and W. E. B. Chase, dated April 5, 1960
including pen notations

1218 1262

Letter from C. R. Maher to W. P. Kennedy
and W. E. B. Chase dated April 7, 1960
including pen notations

1219 1263

Letter from C. R. Maher to W. P. Kennedy
and W. J. Weil, dated March 31, 1960
including pen notations

1220 1264

"J"—Payroll records of the Brotherhood of
Railroad Trainmen covering Regional In-
vestigators

1221 1265

Payroll record of I. B. Byers

1221 1265

Payroll record of R. J. Calkins

1222 1266

Payroll record of G. A. Clinkenbeard

1225 1268

Payroll record of R. M. Crago

1229 1272

Payroll record of H. S. Dragmire

1232 1275

Payroll record of G. A. McNurlan

1235 1278

Payroll record of W. P. Meroney

1239 1282

Payroll record of R. T. Miller

1240 1283

Payroll record of R. H. Moss

1243 1286

Payroll record of G. J. Rerat

1247 1290

Payroll record of W. Siess

1251 1294

Payroll record of E. A. Stouvenal

1255 1298

Payroll record of D. O. Taylor

1257 1300

Payroll record of N. W. Tingle

1261 1304

Payroll record of M. M. Verbón

1265 1308

"K"—Schedules of the Financial Operation of
the Legal Aid Department 1950 thru 1960

1267 1310

"L"—Audit of the Legal Aid Department for
the years 1954 thru August 31, 1961

1278 1321

| | Original | Print |
|--|----------|-------|
| Record from the Chancery Court of the City of Richmond, Virginia—Continued | | |
| PLAINTIFF'S BYINGTON EXHIBIT "A"—The State of Georgia v. B. G. Byington | 1282 | 1325 |
| Special Presentment, Sentence, certificate and Indictment | 1282 | 1325 |
| Report of Evidence | 1289 | 1334 |
| Testimony of Mrs. Neal Wills— | | |
| direct | 1290 | 1335 |
| cross | 1294 | 1340 |
| Betty Ann Queen Doeg— | | |
| direct | 1297 | 1343 |
| cross | 1302 | 1349 |
| Billy Griffin— | | |
| direct | 1309 | 1356 |
| cross | 1312 | 1359 |
| redirect | 1314 | 1362 |
| recross | 1315 | 1362 |
| Parker Whitfield— | | |
| direct | 1316 | 1364 |
| cross | 1317 | 1365 |
| B. G. Byington— | | |
| direct | 1317 | 1366 |
| cross | 1323 | 1372 |
| Gerald F. Griffin— | | |
| direct | 1331 | 1381 |
| cross | 1333 | 1382 |
| Defendant rests | 1333 | 1382 |
| Testimony of J. D. Stewart— | | |
| direct | 1333 | 1383 |
| cross | 1335 | 1385 |
| State rests | 1337 | 1387 |
| Certificates—Judge's, Reporter's and Clerk's | 1338 | 1388 |
| Order allowing certiorari | 1340 | 1391 |

CASH RECEIVED

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA
PLAINTIFF'S CHASE EXHIBIT "F"

FORM C 10.0

1959

- 1 Jan 5 C. Hildebrand
2 5 A.D. Brandon
3 12 C. Rawlings
4 12 D. M^{rs} Flynn
5 21 Henkle & Henkle (for 1958 Salaries)
6 30 C. Hildebrand
7
8 Feb. 3 A.D. Brandon
9 9 E.A. Berat
10 11 C. Rawlings
11 16 E.A. Berat
12 26 E.B. Henkle, Estate of, (owed from 1958)
13 27 C. Hildebrand
14
15 Mar 3 A.D. Brandon
16 9 B. Savage
17 9 E.A. Berat
18 13 Henkle & Henkle (Henkle, Monk & Murray)
19 13 Henkle & Henkle Henkle, Monk & Murray
20 13 C. Rawlings
21 16 D. M^{rs} Flynn
22 30 C. Hildebrand
23 30 R.E. Grillo (Stationery & office supplies)
24
25 April 9 Henkle & Henkle
26 14 Henkle & Henkle (Henkle, Monk & Murray)
27 20 L.A. Pittman # 733 (Rawlings Cont. - Dr. Exp)
28 24 J. J. Le Santos # 546 (Dunn Cont. - Dr. Exp)
29 29 C. Hildebrand
30 29 M. J. Stack # 973 (Dunn Cont. - Dr. Exp)
31
32 May 3 E.B. Henkle, Estate of, (R.C. Moore 1958 Vacation)
33 27 C. Hildebrand
34 28 H.A. Schwendy # 102 (Berat Cont. - Dr. Exp)
35 29 J.M. Polinsky # 98 (Rawlings Cont. - Dr. Exp)
36

+25⁰⁰+25⁰⁰+25⁰⁰

RMC 100

| | | | | |
|----|---|-------------------|---------|----|
| 1 | Jan 5 C. Hildebrand | | 186126 | 1 |
| 2 | 5 A.D. Brandon | +25 ⁰⁰ | 22508 | 2 |
| 3 | 12 C. Rawlings | | 123626 | 3 |
| 4 | 12 D. M. Lynn | | 975- | 4 |
| 5 | 21 Hensley & Hensley (for 1958 Salaries) | | 586818 | 5 |
| 6 | 30 C. Hildebrand | | 106826 | 6 |
| 7 | | | | 7 |
| 8 | Feb 3 A.D. Brandon | +25 ⁰⁰ | 225- | 8 |
| 9 | 9 E.A. Girat | | 38063 | 9 |
| 10 | 11 C. Rawlings | | 124326 | 10 |
| 11 | 16 E.A. Girat | | 38415 | 11 |
| 12 | 26 E.B. Hensley, Estate of, (owed from 1958) | | 1746539 | 12 |
| 13 | 27 C. Hildebrand | | 106476 | 13 |
| 14 | | | | 14 |
| 15 | Mar 3 A.D. Brandon | +25 ⁰⁰ | 225- | 15 |
| 16 | 9 B. Savage | | 152952 | 16 |
| 17 | 9 E.A. Girat | | 38238 | 17 |
| 18 | 13 Hensley & Hensley (Hensley, Monk & Murray) | | 273552 | 18 |
| 19 | 13 Hensley & Hensley (Hensley, Monk & Murray) | | 175226 | 19 |
| 20 | 13 C. Rawlings | | 123976 | 20 |
| 21 | 16 D. M. Lynn | | 950- | 21 |
| 22 | 30 C. Hildebrand | | 106476 | 22 |
| 23 | 30 R.C. Grillo (Stationery & office supplies) | | 575- | 23 |
| 24 | | | | 24 |
| 25 | April 9 Hensley & Hensley | | 311626 | 25 |
| 26 | 14 Hensley & Hensley (Hensley, Monk & Murray) | | 145226 | 26 |
| 27 | 20 L.A. Pittman #133 (Rawlings Cont. - Dr. Exp) | | 1000- | 27 |
| 28 | 24 J. de Santis #516 (Dunn Cont. - Dr. Exp) | | 1000- | 28 |
| 29 | 29 C. Hildebrand | | 106476 | 29 |
| 30 | 29 M.J. Stack #913 (Dunn Cont. - Dr. Exp) | | 500- | 30 |
| 31 | | | | 31 |
| 32 | May 8 E.B. Hensley, Estate of, (R.C. Moore 1958 Vacation) | | 41425 | 32 |
| 33 | 27 C. Hildebrand | | 16476 | 33 |
| 34 | 28 A.B. Schwendy #102 (Girat Cont. - Dr. Exp) | | 750- | 34 |
| 35 | 29 J.M. Polasky #98 (Rawlings Cont. - Dr. Exp) | | 250- | 35 |
| 36 | | | 5049437 | 36 |

| 1959 | | Rel. Bal. forward | 70,494.57 |
|------|--|-------------------|-----------|
| 1 | June 1 C. Hildebrand | 119.24 | 1 |
| 2 | 3 E. B. Henkel, Estate of (T. P. Halligan 1958 Vacation) | 345.20 | 2 |
| 3 | 18 Ramsey, Ramsey & Ramsey | 209.00 | 3 |
| 4 | 19 D. M. Mlynn | 750.00 | 4 |
| 5 | 29 C. Hildebrand | 884.00 | 5 |
| 6 | 29 E. B. Henkel (Estate of - (E. D. Howarth 1958 Vacation) | 345.21 | 6 |
| 7 | 29 Henkel & Henkel (Henkel, Monck & Murray) | 400.00 | 7 |
| 8 | 29 J. Dagnello # 1090 (Zelenko & Elkind Cont) Drw Exp | 250.00 | 8 |
| 9 | | | 9 |
| 10 | July 1 Yarger & Yarger | 348.00 | 10 |
| 11 | 14 Lewis & Lewis | 1714.50 | 11 |
| 12 | 14 J. Sutton # 959 (Zelenko & Elkind Cont - Drw Exp) | 150.00 | 12 |
| 13 | 15 A. Napolitano # 1069 (Zelenko & Elkind Cont - Drw Exp) | 250.00 | 13 |
| 14 | 16 D. H. Pearson # 1050 (Pearson Cont - Drw Exp) | ✓ 1000.00 | 14 |
| 15 | 17 D. P. Ryan # 598 (Zelenko & Elkind Cont (Drw Exp) | 100.00 | 15 |
| 16 | 20 M. Hibbons # 959 (Zelenko & Elkind Cont - Drw Exp) | 100.00 | 16 |
| 17 | 20 J. Bialy # 946 (Zelenko & Elkind Cont, Drw Exp) | 200.00 | 17 |
| 18 | 22 H. W. Mitchell # 517 (Zelenko & Elkind Cont Drw Exp) | 100.00 | 18 |
| 19 | 23 T. W. Owen # 413 (Pearson Cont - Drw Exp) | ✓ 1000.00 | 19 |
| 20 | 27 Walter Eschel # 598 (Zelenko & Elkind Cont - Drw Exp) | 100.00 | 20 |
| 21 | 27 Frank Hov # 959 (Zelenko & Elkind Cont Drw Exp) | 100.00 | 21 |
| 22 | 29 C. Hildebrand | 884.00 | 22 |
| 23 | | | 23 |
| 24 | Aug 3 J. Jollard # 400 (Perat Cont - Drw Exp) | 750.00 | 24 |
| 25 | 3 J. A. Hamlin # 1075 (Perat Cont - Drw Exp) | 750.00 | 25 |
| 26 | 7 W. P. Carle # 174 (Henkel & H. Drw Exp) | 300.00 | 26 |
| 27 | June 30 Henkel & Henkel | 7639.57 | 27 |
| 28 | August 10 Jacob, Davis & Schmidt | 2171.00 | 28 |
| 29 | 11 J. Beauchamp # 160 (Henkel & Henkel Cont - Drw Exp) | 300.00 | 29 |
| 30 | 19 B. M. Savage | 6000.00 | 30 |
| 31 | 21 C. G. Fox # 1054 (Zelenko & Elkind Cont Drw Exp) | 100.00 | 31 |
| 32 | 21 S. L. G. Jones # 114 (Zelenko & Elkind Cont Drw Exp) | 100.00 | 32 |
| 33 | 8 C. L. Loma | 884.00 | 33 |
| 34 | 11 J. A. Kravie # 1080 (Zelenko & Elkind Cont - Drw Exp) | 200.00 | 34 |
| 35 | 11 J. D. Zelenko # 1047 (Zelenko & Elkind Cont - Drw Exp) | 750.00 | 35 |
| 36 | | | 36 |

FORM C 100

1954

1 Sept 21 Robert Shalawa #1069 (Zelenko + Elkind Cont Inw Exp)
 2 24 Joseph Brande # 96 (Z + E Cont - Inw Exp)
 3 24 Zelenko + Elkind (for supplies ordered through LAD)
 4 25 M. L. Brandenburg # 877 (Y + Y Cont - Inw Exp)
 5 25 D. W. Lemons # 191 (Y + Y Cont Inw Exp)
 6 25 T. C. Rajak # 151 (Y + Y Cont - Inw Exp)
 7 28 G. E. Murphy # 1047 (Z + E Cont - Inw Exp)
 8 28 G. J. Butler # 705 (Dunn Cont - Inw Exp)
 9 30 C. Hildebrand
 10 30 Jack Stettin # 623 (Z + E Cont Inw Exp)
 11 Oct 5 A. J. Hagan # 944 (Y + Y Cont Inw Exp)
 12 5 C. L. Jensen # 384 (Y + Y Cont - Inw Exp)
 13 5 L. L. Jones # 183 (Y + Y Cont Inw Exp)
 14 5 Emil Malpede # 562 (Y + Y Cont Inw Exp)
 15 5 M. E. Pappas # 436 (Y + Y Cont Inw Exp)
 16 5 G. M. W. Herritt # 445 (Y + Y Cont - Inw Exp)
 17 5 R. C. Zarn # 638 (Y + Y Cont Inw Exp)
 18 5 C. T. Furlong # 961 (Z + E Cont Inw Exp)
 19 5 H. J. Ryan, Jr. # 1069 (Z + E Cont Inw Exp)
 20 5 R. W. Fleming # 197 (Z + E Cont Inw Exp)
 21 8 C. L. LaDondy # 598 (Z + E Cont Inw Exp)
 22 8 J. Urbany # 1090 (Z + E Cont Inw Exp)
 23 12 C. J. Gallagher # 571 (Z + E Cont Inw Exp)
 24 19 J. J. Zabrawski # 143 (Dunn Cont - Inw Exp)
 25 19 M. W. Budman # 1069 (Z + E Cont - Inw Exp)
 26 21 T. M. Duane # 755 (Z + E Cont - Inw Exp)
 27 26 G. J. Amelino # 678 (Z + E Cont Inw Exp)
 28 30 C. Hildebrand
 29 30 Oscar, Pansky + Shungel (see Nebraska)
 30
 31 Nov 2 J. W. Chestner # 733 (Rawlins Cont Inw Exp)
 32 9 R. Behagg # 1069 (Z + E Cont Inw Exp)
 33 9 Jack Shaw # 678 (Z + E Contracts (2) - Inw Exp)
 34 11 E. P. Lewis # 1069 (Z + E Cont Inw Exp)
 35 12 H. Pogue # 598 (Z + E Cont - Inw Exp)
 36



MADE BY
 MASTER COPY CORP.
 (NOT FOR SALE)
 WASHINGTON, D.C. U.S.A.

C 102

1954

| | | | |
|----|---|---------|----|
| 1 | Sept 21 Robert Strahan #1069 (Zelanko & Elkind Cont In Exp) | 100 - | 1 |
| 2 | 24 Joseph Branda #94 (Z & C. Cont In Exp) | 100 - | 2 |
| 3 | 24 Zelanko & Elkind (for supplies ordered through LAD) | 550 - | 3 |
| 4 | 25 M.L. Brandenburg #877 (Y. Y. Cont In Exp) | 300 - | 4 |
| 5 | 25 D.W. Yermace #191 (Y. Y. Cont In Exp) | 300 - | 5 |
| 6 | 25 T.C. Ryzak #151 (Y. Y. Cont In Exp) | 300 - | 6 |
| 7 | 28 G.E. Murphy #1047 (Z & F Cont In Exp) | 150 - | 7 |
| 8 | 28 G.F. Butler #705 (Lynn Cont In Exp) | 500 - | 8 |
| 9 | 30 C. Heldbrand | 884 - | 9 |
| 10 | 30 Frank Strick #623 (Z & E Cont In Exp) | 150 - | 10 |
| 11 | Oct 5 A.J. Hagan #944 (Y. Y. Cont In Exp) | 300 - | 11 |
| 12 | 5 E.L. Jensen #384 (Y. Y. Cont In Exp) | 300 - | 12 |
| 13 | 5 L.J. Jones #183 (Y. Y. Cont In Exp) | 300 - | 13 |
| 14 | 5 Emil Malpica #562 (Y. Y. Cont In Exp) | 300 - | 14 |
| 15 | 5 M.C. Pappas #436 (Y. Y. Cont In Exp) | 300 - | 15 |
| 16 | 5 G.M. W. Herritt #445 (Y. Y. Cont In Exp) | 300 - | 16 |
| 17 | 5 R.C. Ziem #638 (Y. Y. Cont In Exp) | 300 - | 17 |
| 18 | 5 C.T. Lurlog #961 (Z & F Cont In Exp) | 250 - | 18 |
| 19 | 5 N.J. Ryan, Jr. #1069 (Z & E Cont In Exp) | 100 - | 19 |
| 20 | 5 R.W. Fleming #197 (Z & E Cont In Exp) | 100 - | 20 |
| 21 | 8 C.L. LaDorville #598 (Z & E Cont In Exp) | 100 - | 21 |
| 22 | 8 J. Urbany #1090 (Z & F Cont In Exp) | 150 - | 22 |
| 23 | 12 C.G. Gallagher #577 (Z & E Cont In Exp) | 250 - | 23 |
| 24 | 14 J.J. Zabrowski #143 (Lynn Cont In Exp) | 250 - | 24 |
| 25 | 19 M.W. Budner #1069 (Z & F Cont In Exp) | 100 - | 25 |
| 26 | 21 T.M. Duane #755 (Z & F Cont In Exp) | 100 - | 26 |
| 27 | 26 G.J. Amelme #698 (Z & F Cont In Exp) | 100 - | 27 |
| 28 | 30 C. Heldbrand | 584 - | 28 |
| 29 | 30 Andy, Pansing & Hengst (see Nebraska) | 30420 - | 29 |
| 30 | | | 30 |
| 31 | Nov 2 J.W. Christian #753 (Rawlins Cont In Exp) | 900 - | 31 |
| 32 | 9 A. Dehago #869 (Z & F Cont In Exp) | 100 - | 32 |
| 33 | 9 Frank Shaw #678 (Z & F Contracts (2) In Exp) | 200 - | 33 |
| 34 | 11 C.P. Seino #1069 (Z & F Cont In Exp) | 100 - | 34 |
| 35 | 12 M. Ragan #598 (Z & F Cont In Exp) | 150 - | 35 |
| 36 | | | 36 |

| | | | | |
|----|---|--|--------|----|
| 1 | Nov 19 C. J. McNeal #578 | (Dns Exp - Henslee + H Cont) | 200 - | 1 |
| 2 | 19 J. T. Shum #961 | (Dns Exp - Z + E Cont) | 100 - | 2 |
| 3 | 20 J. J. Hranit #552 | (Dns Exp - Z + E Cont) | 100 - | 3 |
| 4 | 23 Joseph J. Janny #97 | (Dns Exp) | 11550 | 4 |
| 5 | 23 Carl Brockmeier #574 | (Dns Exp) - Z + E Cont | 100 - | 5 |
| 6 | 24 J. J. Keddies #113 | (Dns Exp) - Shum Cont | 1000 - | 6 |
| 7 | 24 J. J. Mattery #827 | (Dns Exp - Z + E Cont) | 100 - | 7 |
| 8 | | | | 8 |
| 9 | Dec 1 Clifton Keldstrand | | 884 - | 9 |
| 10 | 2 Kenneth L. Johns #89 | (Dns Exp Henslee + H Cont) | 200 - | 10 |
| 11 | 3 Ramsey Ramsey | (Dns Exp - money loaned to J. J. Pinesaw #669) | 19879 | 11 |
| 12 | 4 Ramsey Ramsey | (Dns Exp - money loaned to M. A. Hollister #224) | 5680 | 12 |
| 13 | 7 E. J. Fox #1054 | (Dns Exp - Z + E Cont) | 200 - | 13 |
| 14 | 8 Harley Munn (Dec 14) | (Dns Exp - J. A. S) | 250 - | 14 |
| 15 | 9 Walford M. Nunn (Dec 14) | (Dns Exp) - Dent Cont | 1000 - | 15 |
| 16 | 10 W. M. J. McLaughlin #197 | (Dns Exp) - Z + E Cont | 100 - | 16 |
| 17 | 14 Ramsey Ramsey | (Dns Exp - money loaned to C. A. Wornack #377) | 9281 | 17 |
| 18 | 14 John K. Lamm #765 | | 100 - | 18 |
| 19 | 17 J. Murray Dunn (Dns Exp - money loaned to E. Cross #250) | | 1000 - | 19 |
| 20 | 17 J. S. Brewster #1090 | (Dns Exp - Z + E) | 100 - | 20 |
| 21 | 21 Zelma E. Elkins | | 9300 - | 21 |
| 22 | 22 J. J. Mueller #1033 | (Dns Exp - H + H Cont) | 50 - | 22 |
| 23 | 24 J. J. Byars #517 | (Dns Exp - Z + E Cont) | 100 - | 23 |
| 24 | 24 J. J. Metzger #160 | (Dns Exp - H + H Cont) | 150 - | 24 |
| 25 | 28 Paul Liker #150 | (Dns Exp - Z + E Cont) | 100 - | 25 |
| 26 | 30 J. Murray Dunn | (Dns Exp - Varnier Cont) | 54144 | 26 |
| 27 | 30 E. J. Hovetson #808 | (Dns Exp - Jagger Cont) | 245 - | 27 |
| 28 | | | | 28 |
| 29 | 1960 | | | 29 |
| 30 | Jan 7 Dwight C. Hall #648 | (Dns Exp - H + H Exp) | 125 - | 30 |
| 31 | 7 R. L. M. Common #261 | (Dns Exp - H + H Exp) | 150 - | 31 |
| 32 | 7 Ramsey Ramsey R. | Credit to 1959. Insurance | 55617 | 32 |
| 33 | 7 Clifton Keldstrand | | 884 - | 33 |
| 34 | 13 Ramsey, R. R. | (Dns Exp - Money loaned to K. R. Monnon #347) | 4223 | 34 |
| 35 | 13 Ramsey, R. R. | (Dns Exp - Money loaned to Jack Brown #347) | 7920 | 35 |
| 36 | | | | 36 |

FORM C 10 Q

1960

1 Jan 13 Joseph W. Coyle #99 (Inv Exp - Z + F Cont.)
 2 Feb 5 Clifton Hildebrand
 3 5 C. D. Doughty #201 (Inv Exp - H + H Cont.)
 4 13 Arthur J. Coleman #731 (Inv Exp - Z + F Cont.)
 5 29 N. D. Moore #618 (Inv Exp - H + H Cont.)
 6 29 E. W. Bickel #518 (Inv Exp - H + H Cont.)
 7 Mar 4 Clifton Hildebrand
 8 5 J. A. Parker #949 (Inv Exp - Z + F Cont.)
 9 16 Calumet Co. Rawlins
 10 18 J. J. Hols #474 (Inv Exp - H + H Cont.)
 11 21 Ramsey Ramsey
 12 25 H. C. Penman #957 (Inv Exp - Z + F Cont.)
 13 31 H. C. Penman #957
 14 31 H. C. Penman #957
 15 31 H. C. Penman #957
 16 31 H. C. Penman #957
 17 31 H. C. Penman #957

18 April 1 Clifton Hildebrand
 19 4 Victor L. Kruger #115 (Inv Exp - H + H Cont.)
 20 5 Greger & Greger
 21 7 H. C. Penman #957 (Inv Exp - Permat)
 22 7 C. A. Benton #233 (Inv Exp - Permat)
 23 7 Elmer Collins #41 (Inv Exp - Permat)
 24 7 Carl Esberry #24 (Inv Exp - Permat)
 25 7 Ray Tishler #737 (Inv Exp - Permat)
 26 12 J. J. Armstrong #375 (Inv Exp - H + H)
 27

28 May 27 Eugene Brat (for H. J. Rine organizing assignment) May-Dec 1960 - 1 day per mo
 29
 30
 31
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Cash Received - Page [Vol. 1178]

1960

| | | | |
|----|---|--------|----|
| 1 | Jan 15 Joseph W. Coyle #999 (Inv Exp - Z + E Cont.) | 300 - | 1 |
| 2 | Feb 5 Clifton Hildbrand | 884 | 2 |
| 3 | 5 C. D. Dought #261 (Inv Exp - H + N Cont.) | 231 | 3 |
| 4 | 13 John J. Coleman #731 (Inv Exp - Z + E Cont.) | 100 | 4 |
| 5 | 29 N. D. Moore #678 (Inv Exp - H + N Cont.) | 125 | 5 |
| 6 | 29 E. W. Fitch #518 (Inv Exp - H + N Cont.) | 100 | 6 |
| 7 | Mar 4 Clifton Hildbrand | 884 | 7 |
| 8 | 5 J. A. Parker #949 (Inv Exp - Z + E Cont.) | 125 - | 8 |
| 9 | 16 Calumet Co. Rawlins | 9500 - | 9 |
| 10 | 18 J. J. Bole #474 (Inv Exp - H + N Cont.) | 100 | 10 |
| 11 | 21 Ramsey, Ramsey & Co. | 10484 | 11 |
| 12 | 21 Kyle C. Penman #957 (Inv Exp - Z + E Cont.) | 203 - | 12 |
| 13 | 31 All in Cash | 1541 - | 13 |
| 14 | 31 All in Cash | 150 | 14 |
| 15 | 31 All in Cash | 50 | 15 |
| 16 | 31 All in Cash | 433 | 16 |
| 17 | | | 17 |
| 18 | April 1 Clifton Hildbrand | 11747 | 18 |
| 19 | 5 Victor L. Kruger #115 (Inv Exp - H + N Cont.) | 200 - | 19 |
| 20 | 5 Yager & Yager | 1003 - | 20 |
| 21 | 7 The Kansas (Rev) #450 (Inv Exp - Permat) | 8000 - | 21 |
| 22 | 7 C. A. Johnston #933 (Inv Exp - Permat) | 753 - | 22 |
| 23 | 7 Elmer Collins #41 (Inv Exp - Permat) | 1451 - | 23 |
| 24 | 7 Carl Clabury #274 (Inv Exp - Permat) | 1000 - | 24 |
| 25 | 7 Ray Tullis #737 (Inv Exp - Permat) | 751 - | 25 |
| 26 | 12 J. Armstrong #375 (Inv Exp - H + N) | 250 - | 26 |
| 27 | | | 27 |
| 28 | May 27 Eugene Grant (for the J. Rine organizing assignment) May - Dec 1960 - 1 day per mo | 25176 | 28 |
| 29 | | | 29 |
| 30 | | | 30 |
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| 32 | | | 32 |
| 33 | | | 33 |
| 34 | | | 34 |
| 35 | | | 35 |
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FORM C 10 Q

1959

SALARY R.R. TAX R.U.I.C. EXPENSE PER DIEM MISC.

| | | | | | | | |
|----|---------|-------------------------|--------|-------|------|--|--|
| 1 | Jan 1 | G. J. Klein #731 | 350 - | 21 22 | 1050 | | |
| 2 | | T. G. Thompson #579 | 175 - | 10 94 | 525 | | |
| 3 | Feb 1 | G. J. Klein #731 | 350 - | 21 22 | 1050 | | |
| 4 | | T. G. Thompson #579 | 350 - | 21 22 | 1050 | | |
| 5 | Mar 1 | G. J. Klein #731 | 350 - | 21 22 | 1050 | | |
| 6 | | T. G. Thompson #579 | 350 - | 21 22 | 1050 | | |
| 7 | Apr 1 | G. J. Klein #731 | 350 - | 21 22 | 1050 | | |
| 8 | | T. G. Thompson #579 | 350 - | 21 22 | 1050 | | |
| 9 | | 24 G. J. De Santis #246 | | | | | |
| 10 | | 29 M. G. Stack #973 | | | | | |
| 11 | May 1 | G. J. Klein #731 | 350 - | 21 22 | 1050 | | |
| 12 | | T. G. Thompson #579 | 350 - | 21 22 | 1050 | | |
| 13 | June 1 | G. J. Klein #731 | 400 - | 27 - | 15 - | | |
| 14 | | T. G. Thompson #579 | 400 - | 27 - | 15 - | | |
| 15 | July 16 | D. H. Pearson #1059 | | | | | |
| 16 | | 23 T. W. Owen #413 | | | | | |
| 17 | July 1 | G. J. Klein #731 | 400 - | 27 00 | 15 - | | |
| 18 | | T. G. Thompson #579 | 161 29 | 10 89 | 605 | | |
| 19 | Aug 1 | G. J. Klein #731 | 400 - | 27 - | 15 - | | |
| 20 | | T. G. Thompson #579 | 400 - | 27 - | 15 - | | |
| 21 | Sept 28 | J. J. Butler #705 | | | | | |
| 22 | | G. J. Klein #731 | 200 - | 13 50 | 750 | | |
| 23 | | T. G. Thompson #579 | 400 - | 27 - | 15 - | | |
| 24 | Oct 19 | J. J. Zubrowski #140 | | | | | |
| 25 | | T. G. Thompson #579 | 400 - | 27 - | 15 - | | |
| 26 | Nov 24 | T. G. Piddox #413 | | | | | |
| 27 | | T. G. Thompson #579 | 400 - | 27 - | 15 - | | |
| 28 | Dec 17 | J. Murray Down #225 | | | | | |
| 29 | | T. G. Thompson #579 | 400 - | 27 - | 15 - | | |
| 30 | | 30 J. Murray Down | | | | | |

Credit from 1959

[fol. 1179]

| 1959 | SALARY | R.R. TAX | R.U.I.C. | EXPENSE | PER DIEM | MISC. | DEBIT | CREDIT |
|--------------------------------|--------|----------|----------|---------|----------|-------|------------------|--------|
| Jan 1 G.G. Klein #731 | 350 - | 21 88 | 1050 | | | | 382 38 | 1 |
| 2 T.G. Thompson #579 | 175 - | 10 94 | 525 | | | | 191 19 | 2 |
| 3 Feb 1 G.G. Klein #731 | 350 - | 21 88 | 1050 | | | | 382 38 | 3 |
| 4 T.G. Thompson #579 | 350 - | 21 88 | 1050 | | | | 382 38 | 4 |
| 5 March 1 G.G. Klein #731 | 350 - | 21 88 | 1050 | | | | 382 38 | 5 |
| 6 T.G. Thompson #579 | 350 - | 21 88 | 1050 | | | | 382 38 | 6 |
| 7 April 1 G.G. Klein #731 | 350 - | 21 88 | 1050 | | | | 382 38 | 7 |
| 8 T.G. Thompson #579 | 350 - | 21 88 | 1050 | | | | 382 38 | 8 |
| 9 24 G.G. De Lente #846 | | | | | | | | 9 |
| 10 29 M.G. Stach #913 | | | | | | | 1000 - | 10 |
| 11 May 1 G.G. Klein #731 | 350 - | 21 88 | 1050 | | | | 382 38 | 11 |
| 12 T.G. Thompson #579 | 350 - | 21 88 | 1050 | | | | 382 38 | 12 |
| 13 June 1 G.G. Klein #731 | 400 - | 27 - | 15 - | | | | 442 - | 13 |
| 14 T.G. Thompson #579 | 400 - | 27 - | 15 - | | | | 442 - | 14 |
| 15 July 16 D.H. Pearson #1059 | | | | | | | | 15 |
| 16 23 T.W. Owen #413 | | | | | | | 1000 - | 16 |
| 17 July 1 G.G. Klein #731 | 400 - | 27 00 | 15 - | | | | 442 - | 17 |
| 18 T.G. Thompson #579 | 161 29 | 10 89 | 605 | | | | 178 23 | 18 |
| 19 Aug 1 G.G. Klein #731 | 400 - | 27 - | 15 - | | | | 442 - | 19 |
| 20 T.G. Thompson #579 | 400 - | 27 - | 15 - | | | | 442 - | 20 |
| 21 Sept 28 J. J. Butler #705 | | | | | | | | 21 |
| 22 G.G. Klein #731 | 300 - | 13 50 | 750 | | | | 221 - | 22 |
| 23 T.G. Thompson #579 | 400 - | 27 - | 15 - | | | | 442 - | 23 |
| 24 Oct 19 J. J. Zubrowski #148 | | | | | | | | 24 |
| 25 T.G. Thompson #579 | 400 - | 27 - | 15 - | | | | 250 - | 25 |
| 26 Nov 24 G.G. Padden #413 | | | | | | | 442 - | 26 |
| 27 T.G. Thompson #579 | 400 - | 27 - | 15 - | | | | 1000 - | 27 |
| 28 Dec 17 J. Murray Down #1059 | | | | | | | 442 - | 28 |
| 29 T.G. Thompson #579 | 400 - | 27 - | 15 - | | | | 1000 - | 29 |
| 30 J. Murray Down | | | | | | | 442 - | 30 |
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Credit from 1959

365450

JOSEPH F. FREDKY

[fol. 1190]

FORM C 100

1959

SALARY

R. R. TAX

R.U.I.C.

EXPENSE

PER DIEM

MISC.

DEBIT

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Nov 20

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Dec 11 R. J. Ladden #635

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Credit from 1959

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[fol. 1180]

| | | 1959 | SALARY | R. R. TAX | R.U.I.C. | EXPENSE | PER DIEM | MISC. | DEBIT | CREDIT |
|----|---------|-------------------|--------|-----------|----------|---------|----------|-------|-------|--------|
| 1 | 7/10 20 | | | | | | | | | 41550 |
| 2 | Dec 11 | R. R. Ticket #635 | 28.40 | | | 1000 | 500 | | 4340 | |
| 3 | | | | | | | | | 4340 | 41550 |
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FORM C 10 Q

| | 1959 | SALARY | R.R. TAX | R.U.I.C. | EXPENSE | PER DIEM | MISC. | DEBIT |
|----|-----------------------|--------|----------|----------|---------|----------|-------|-------|
| 1 | Jan 1 C.G. Moore #221 | 225- | | | | | | 22 |
| 2 | 5 A.D. Brandon | | | | | | +25 | |
| 3 | Feb 1 C.G. Moore #231 | 225- | | | | | | 22 |
| 4 | 3 A.D. Brandon | | | | | | +25 | |
| 5 | Mar 1 C.G. Moore #231 | 225- | | | | | | 22 |
| 6 | 4 A.D. Brandon | | | | | | +25 | |
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| 1959 | | SALARY | R.R. TAX | R.U.I.C. | EXPENSE | PER DIE | MISC. | DEBIT | CREDIT |
| 1 | Jan 1 | C. G. Moore #221 | 225- | | | | | | |
| 2 | 5 | A. D. Brandon | | | | | | 225- | 1 |
| 3 | 1 | C. G. Moore #231 | 225- | | | | | | 2 |
| 4 | 3 | A. D. Brandon | | | | | | 225- | 3 |
| 5 | 1 | C. G. Moore #231 | 225- | | | | | | 4 |
| 6 | 1 | A. D. Brandon | | | | | | 225- | 5 |
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| | | | | | | | MISC. | DEBIT | |
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RMC 100

| 1959 | | SALARY | R.R. TAX | PER DIEM | EXPENSE | PER DIEM | Debit from 1958 1746539 | | |
|------|----------|----------------------------|----------|----------|---------|----------|-------------------------|---------|---------|
| | | | | | | | MISC. | DEBIT | CREDIT |
| 1 | Feb 26 | E. B. Hensley (Estates of) | | | | | | | 1746539 |
| 2 | Mar 13 | E. B. Hensley (Estates of) | | | | | | | 273552 |
| 3 | 13 | E. B. Hensley (Estates of) | | | | | | | 145226 |
| 4 | April 19 | C. B. Hensley (Estates of) | | | | | | | 145226 |
| 5 | May 4 | P. C. Moore & 1023 | | | | | | | |
| 6 | 8 | E. B. Hensley (Estates of) | | | | | | 41425 | 41425 |
| 7 | June 1 | T. P. Halligan & 395 | | | | | | | |
| 8 | 3 | E. B. Hensley (Estates of) | | | | | | 34520 | 34520 |
| 9 | 24 | E. D. Haworth & 360 | | | | | | | |
| 10 | 29 | E. B. Hensley (Estates of) | | | | | | 34521 | 34521 |
| 11 | 29 | E. B. Hensley (Estates of) | | | | | | | 4000 - |
| 12 | | | | | | | | | |
| 13 | | | | | | | | 1257005 | 2121007 |
| 14 | | | | | | | | | 964004 |
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FORM C 10 Q

1959

Debits from 1958

5,864

| | | | SALARY | R.R. TAX | R.U.I.C. | EXPENSE | PER DIEM | MISC. | DEBIT |
|----|-------|----|---------------------|----------|----------|---------|----------|-------|-------|
| 1 | Jan | 1 | A.B. Bunker #1041 | 250 - | 1563 | 750 | | | 272 |
| 2 | | 1 | W.E. Bunker #4 | 375 - | 2188 | 1050 | | | 407 |
| 3 | | 1 | R.M. Crago #699 | 500 - | | | | | 500 |
| 4 | | 1 | T.P. Halligan #1345 | 500 - | 2188 | 1050 | | | 532 |
| 5 | | 1 | E.D. Homan #260 | 500 - | 2188 | 1050 | | | 532 |
| 6 | | 1 | R.W. McRae #575 | 150 - | | | | | 150 |
| 7 | | 1 | R.C. Moore #1053 | 600 - | 2188 | 1050 | | | 632 |
| 8 | | 1 | R.H. Moore #160 | 500 - | 2188 | 1050 | | | 532 |
| 9 | | 1 | D.D. Patmore #199 | 250 - | 938 | 450 | | | 263 |
| 10 | | 1 | M.J. Radzycki #287 | 500 - | 2188 | 1050 | | | 532 |
| 11 | | 1 | W.M. Lucas #160 | 400 - | 2188 | 1050 | | | 432 |
| 12 | | 1 | D.O. Taylor #141 | 500 - | 2188 | 1050 | | | 532 |
| 13 | | 1 | C.E. Wable #174 | 150 - | | | | | 150 |
| 14 | | 21 | Hensley & Hensley | | | | | | |
| 15 | Feb | 1 | W.E. Bunker #4 | 375 - | 2188 | 1050 | | | 407 |
| 16 | | 1 | R.M. Crago #699 | 500 - | | | | | 500 |
| 17 | | 1 | R.H. Moore #160 | 500 - | 2188 | 1050 | | | 532 |
| 18 | | 1 | D.D. Patmore #199 | 250 - | 938 | 450 | | | 263 |
| 19 | | 1 | M.J. Radzycki #287 | 500 - | 2188 | 1050 | | | 532 |
| 20 | | 1 | W.M. Lucas #160 | 400 - | 2188 | 1050 | | | 432 |
| 21 | | 1 | D.O. Taylor #141 | 500 - | 2188 | 1050 | | | 532 |
| 22 | Mar | 1 | W.E. Bunker #4 | 375 - | 2188 | 1050 | | | 407 |
| 23 | | 1 | R.M. Crago #699 | 500 - | | | | | 500 |
| 24 | | 1 | R.H. Moore #160 | 500 - | 2188 | 1050 | | | 532 |
| 25 | | 1 | D.D. Patmore #199 | 250 - | 938 | 450 | | | 263 |
| 26 | | 1 | M.J. Radzycki #287 | 500 - | 2188 | 1050 | | | 532 |
| 27 | | 1 | W.M. Lucas #160 | 400 - | 2188 | 1050 | | | 432 |
| 28 | | 1 | D.O. Taylor #141 | 500 - | 2188 | 1050 | | | 532 |
| 29 | April | 1 | W.E. Bunker #4 | 375 - | 2188 | 1050 | | | 407 |
| 30 | | 1 | R.M. Crago #699 | 350 - | | | | | 350 |
| 31 | | 1 | R.H. Moore #160 | 350 - | 2188 | 1050 | | | 382 |
| 32 | | 1 | D.D. Patmore #199 | 350 - | 2188 | 1050 | | | 382 |
| 33 | | 1 | M.J. Radzycki #287 | 350 - | 2188 | 1050 | | | 382 |
| 34 | | 1 | W.M. Lucas #160 | 350 - | 2188 | 1050 | | | 382 |
| 35 | | 1 | D.O. Taylor #141 | 350 - | 2188 | 1050 | | | 382 |
| 36 | | | | | | | | | 19541 |



| 1959 | | SALARY | R.R. TAX | R.U.I.C. | EXPENSE | PER DIEM | Debits from 1958 | | 5,868 18 | |
|------|---------|---------------------|----------|----------|---------|----------|------------------|-------|----------|----|
| | | | | | | | MISC. | DEBIT | CREDIT | |
| 1 | Jan 1 | A.B. Buck #1041 | 250 - | 1563 | 750 | | | | | 1 |
| 2 | 1 | W.L. Bend #4 | 375 - | 2188 | 1050 | | | 27313 | | 2 |
| 3 | 1 | R.M. Crago #699 | 500 - | | | | | 40738 | | 3 |
| 4 | 1 | T.P. Halligan #345 | 500 - | 2188 | 1050 | | | 500 - | | 4 |
| 5 | 1 | E.D. Houder #260 | 500 - | 2188 | 1050 | | | 53238 | | 5 |
| 6 | 1 | R.W. M. New #575 | 150 - | | | | | 53238 | | 6 |
| 7 | 1 | R.E. Moore #1053 | 600 - | 2188 | 1050 | | | 150 - | | 7 |
| 8 | 1 | R.H. Moss #160 | 500 - | 2188 | 1050 | | | 63238 | | 8 |
| 9 | 1 | D.D. Patmore #199 | 250 - | 938 | 450 | | | 53238 | | 9 |
| 10 | 1 | M.J. Radzycki #257 | 500 - | 2188 | 1050 | | | 26388 | | 10 |
| 11 | 1 | Wm. Lucas #160 | 400 - | 2188 | 1050 | | | 53238 | | 11 |
| 12 | 1 | D.O. Taylor #141 | 500 - | 2188 | 1050 | | | 43238 | | 12 |
| 13 | 1 | C.E. Wable #174 | 150 - | | | | | 53238 | | 13 |
| 14 | 21 | Honolulu + Honolulu | | | | | | 150 - | | 14 |
| 15 | Feb 1 | W.L. Bend #4 | 375 - | 2188 | 1050 | | | | 5868 18 | 15 |
| 16 | 1 | R.M. Crago #699 | 500 - | | | | | 40738 | | 16 |
| 17 | 1 | R.H. Moss #160 | 500 - | 2188 | 1050 | | | 500 - | | 17 |
| 18 | 1 | D.D. Patmore #199 | 250 - | 938 | 450 | | | 53238 | | 18 |
| 19 | 1 | M.J. Radzycki #257 | 500 - | 2188 | 1050 | | | 26388 | | 19 |
| 20 | 1 | Wm. Lucas #160 | 400 - | 2188 | 1050 | | | 53238 | | 20 |
| 21 | 1 | D.O. Taylor #141 | 500 - | 2188 | 1050 | | | 43238 | | 21 |
| 22 | Mar 1 | W.L. Bend #4 | 375 - | 2188 | 1050 | | | 53238 | | 22 |
| 23 | 1 | R.M. Crago #699 | 500 - | | | | | 40738 | | 23 |
| 24 | 1 | R.H. Moss #160 | 500 - | 2188 | 1050 | | | 500 - | | 24 |
| 25 | 1 | D.D. Patmore #199 | 250 - | 938 | 450 | | | 53238 | | 25 |
| 26 | 1 | M.J. Radzycki #257 | 500 - | 2188 | 1050 | | | 26388 | | 26 |
| 27 | 1 | Wm. Lucas #160 | 400 - | 2188 | 1050 | | | 53238 | | 27 |
| 28 | 1 | D.O. Taylor #141 | 500 - | 2188 | 1050 | | | 43238 | | 28 |
| 29 | April 1 | W.L. Bend #4 | 375 - | 2188 | 1050 | | | 53238 | | 29 |
| 30 | 1 | R.M. Crago #699 | 350 - | | | | | 40738 | | 30 |
| 31 | 1 | R.H. Moss #160 | 350 - | 2188 | 1050 | | | 350 - | | 31 |
| 32 | 1 | D.D. Patmore #199 | 350 - | 2188 | 1050 | | | 38238 | | 32 |
| 33 | 1 | M.J. Radzycki #257 | 350 - | 2188 | 1050 | | | 38238 | | 33 |
| 34 | 1 | Wm. Lucas #160 | 350 - | 2188 | 1050 | | | 38238 | | 34 |
| 35 | 1 | D.O. Taylor #141 | 350 - | 2188 | 1050 | | | 38238 | | 35 |
| 36 | | | | | | | | | | 36 |

| | | SALARY | | R.R. TAX | R.U.I.C. EXPENSE | PER DIEM | Debit | | 14,541.89 | | |
|----|----------------------------|--------|--|----------|-------------------------------------|----------|-------|-------|-----------|---------|----|
| | | | | | | | | MISC. | DEBIT | CREDIT | |
| 1 | April 9 Henslee & Henslee | | | | | | | | | | 1 |
| 2 | May 1 W. P. Carlow #4 | 375- | | 21.88 | 1050 | | | | 40738 | 311624 | 2 |
| 3 | 1 R. M. Craig #699 | 350- | | | | | | | 350- | | 3 |
| 4 | 1 R. H. Moore #160 | 350- | | 21.88 | 1050 | | | | 35238 | | 4 |
| 5 | 1 D. D. Patmore #199 | 350- | | 21.88 | 1050 | | | | 35238 | | 5 |
| 6 | 1 M. J. Radtzyge #287 | 350- | | 21.88 | 1050 | | | | 35238 | | 6 |
| 7 | 1 Wm. Lewis #160 | 350- | | 21.88 | 1050 | | | | 35238 | | 7 |
| 8 | 1 D. O. Taylor #141 | 350- | | 21.88 | 1050 | | | | 35238 | | 8 |
| 9 | June 1 W. P. Carlow #4 | 375.00 | | 25.32 | 1406 | | | | 41438 | | 9 |
| 10 | 1 R. M. Craig #699 | 400- | | | | | | | 400- | | 10 |
| 11 | 1 R. H. Moore #160 | 400- | | 27- | 15- | | | | 442- | | 11 |
| 12 | 1 D. D. Patmore #199 | 400- | | 27- | 15- | | | | 442- | | 12 |
| 13 | 1 M. J. Radtzyge #287 | 400- | | 27- | 15- | | | | 442- | | 13 |
| 14 | 1 Wm. Lewis #160 | 400- | | 27- | 15- | | | | 442- | | 14 |
| 15 | 1 D. O. Taylor #141 | 400- | | 27- | 15- | | | | 442- | | 15 |
| 16 | May 19 D. D. Patmore #199 | | | | 6394 | 90- | | | 15394 | | 16 |
| 17 | June 1 D. D. Patmore #199 | | | | 4495 | 90- | | | 13495 | | 17 |
| 18 | 30 D. D. Patmore #199 | | | | 3240 | 75- | | | 10740 | | 18 |
| 19 | 30 D. O. Taylor #141 | | | | 3712 | 35- | | | 7212 | | 19 |
| 20 | July 17 D. D. Patmore #199 | | | | 3490 | 75- | | | 10990 | | 20 |
| 21 | 23 D. O. Taylor #141 | | | | 3479 | 45- | | | 7979 | | 21 |
| 22 | 1 R. M. Craig #699 | 400- | | | | | | | 400- | | 22 |
| 23 | 1 R. H. Moore #160 | 400- | | 27- | 15- | | | | 442- | | 23 |
| 24 | 1 D. D. Patmore #199 | 400- | | 27- | 15- | | | | 442- | | 24 |
| 25 | 1 M. J. Radtzyge #287 | 400- | | 27- | 15- | | | | 442- | | 25 |
| 26 | 1 Wm. Lewis #160 | 400- | | 27- | 15- | | | | 442- | | 26 |
| 27 | 1 D. O. Taylor #141 | 400- | | 27- | 15- | | | | 442- | | 27 |
| 28 | Aug 4 D. D. Patmore #199 | | | | 3185 | 60- | | | 9185 | | 28 |
| 29 | 7 W. P. Carlow #4 | | | | (Henslee & Henslee Cont. - Drw Exp) | | | | | 300- | 29 |
| 30 | June 30 Henslee & Henslee | | | | | | | | | 1639.57 | 30 |
| 31 | Aug 11 J. Radtzyge #40 | | | | (Henslee & Henslee Cont. - Drw Exp) | | | | | 300- | 31 |
| 32 | 23 D. O. Taylor #141 | | | | 4538 | 45- | | | 9038 | | 32 |
| 33 | 1 R. M. Craig #699 | 400- | | | | | | | 400- | | 33 |
| 34 | 1 R. H. Moore #160 | 400- | | 27- | 15- | | | | 442- | | 34 |
| 35 | 1 D. D. Patmore #199 | 400- | | 27- | 15- | | | | 442- | | 35 |
| 36 | | | | | | | | | | | 36 |

FORM C 100

| | 1959 | | SALARY | R.R. TAX | R.U.I.C. | EXPENSE | PER DIEM | MISC. | DEBIT |
|----|--------|------------------------|--------|----------|----------|--|----------|------------|-------|
| 1 | Aug 1 | M. J. Radzycki #141 | 400 - | 27 - | 15 - | | | | 440 |
| 2 | 1 | Wm. Lewis #160 | 400 - | 27 - | 15 - | | | | 440 |
| 3 | 1 | D. O. Taylor #141 | 400 - | 27 - | 15 - | | | | 440 |
| 4 | Sept 9 | D. O. Taylor #199 | | | | 2460 | 45 - | | 69 |
| 5 | 28 | D. O. Taylor #199 | | | | 5225 | 75 - | | 187 |
| 6 | 1 | R. M. Craig #699 | 400 - | | | | | | 400 |
| 7 | 1 | R. H. Moore #160 | 400 - | 27 - | 15 - | | | | 440 |
| 8 | 1 | D. O. Patmore #199 | 400 - | 27 - | 15 - | | | | 440 |
| 9 | 1 | M. J. Radzycki #287 | 400 - | 27 - | 15 - | | | | 440 |
| 10 | 1 | Wm. Lewis #160 | 400 - | 27 - | 15 - | | | | 440 |
| 11 | 1 | D. O. Taylor #141 | 400 - | 27 - | 15 - | | | | 440 |
| 12 | Oct 6 | D. O. Taylor #141 | | | | 4676 | 4500 | | 91 |
| 13 | 1 | R. M. Craig #699 | 200 - | | | | | | 200 |
| 14 | 1 | R. H. Moore #160 | 400 - | 27 - | 15 - | | | | 440 |
| 15 | 1 | D. O. Patmore #199 | 200 - | 1350 | 750 | | | | 22 |
| 16 | 1 | M. J. Radzycki #287 | 200 - | 1350 | 750 | | | | 22 |
| 17 | 1 | Wm. Lewis #160 | 400 - | 27 - | 15 - | | | | 440 |
| 18 | 1 | D. O. Taylor #141 | 400 - | 27 - | 15 - | | | | 440 |
| 19 | | | | | | | | | |
| 20 | Nov 19 | C. J. McPherson #388 | | | | | | | |
| 21 | 1 | R. H. Moore #160 | 400 - | 27 - | 15 - | | | | 440 |
| 22 | 1 | Wm. Lewis #160 | 400 - | 27 - | 15 - | | | | 440 |
| 23 | 1 | D. O. Taylor #141 | 400 - | 27 - | 15 - | | | | 440 |
| 24 | 30 | D. O. Taylor #141 | | | | 3627 | 45 - | | 8 |
| 25 | | | | | | | | | |
| 26 | Dec 2 | Kenneth L. Johnson #19 | | | | | | | |
| 27 | 21 | H. J. Mueller #135 | | | | | | | |
| 28 | 24 | J. J. Metzger #160 | | | | | | | |
| 29 | 1 | R. H. Moore #160 | 400 - | 27 - | 15 - | | | | 440 |
| 30 | 1 | Wm. Lewis #160 | 400 - | 27 - | 15 - | | | | 440 |
| 31 | 1 | D. O. Taylor #141 | 400 - | 27 - | 15 - | | | | 440 |
| 32 | 28 | D. O. Patmore #199 | | 1895 | 900 | (Adjustment on Jan, Feb & March tax -) | | | |
| 33 | | | | | | | | | 3976 |
| 34 | 1960 | | | | | | | 1959 Debit | 21910 |
| 35 | Jan 7 | Douglas E. Hall #141 | | | | | | | |
| 36 | | | | | | | | | |



[illegible]

| 1960 | SALARY | R.R. TAX | R.U.I.C. | EXPENSE | PER DIEM | MISC. | DEBIT | CREDIT |
|-------------------------------|--------|----------|----------|---------|----------|-------|--------|--------|
| Jan 7 R. M. McCombs #201 | | | | | | | | 150 - |
| Jan 31 R. M. McCombs #160 | 400 - | 27 - | 15 - | | | | 442 - | |
| Jan 31 Wm. Sims #160 | 400 - | 27 - | 15 - | | | | 442 - | |
| Jan 31 D. O. Taylor #141 | 400 - | 27 - | 15 - | | | | 442 - | |
| Feb 5 D. O. Taylor #141 | | | | 34 99 | 20 - | | 54 99 | |
| Feb 5 C. D. Knight #201 | | | | | | | | 200 - |
| Feb 13 K. J. Roney #618 | 28 40 | | | 3 33 | 5 - | | 36 73 | |
| Feb 25 D. O. Taylor #141 | | | | 32 96 | 25 - | | 57 96 | |
| Feb 29 N. D. Moore #618 | | | | | | | | 100 - |
| Feb 29 E. L. Riley #518 | | | | | | | | 125 - |
| Feb 29 R. M. McCombs #160 | 400 - | 27 - | 15 - | | | | 442 - | |
| Feb 29 Wm. Sims #160 | 400 - | 27 - | 15 - | | | | 442 - | |
| Feb 29 D. O. Taylor #141 | 400 - | 27 - | 15 - | | | | 442 - | |
| Mar 15 J. J. Kelp #474 | | | | | | | | 100 - |
| Mar 28 D. O. Taylor #141 | | | | 56 42 | 45 - | | 101 42 | |
| Mar 31 Geo. Parks #913 | | | | | | | | 150 - |
| Mar 31 Lawrence Sabe #72 | | | | | | | | 50 - |
| Mar 31 W. L. W. Ward #175 | | | | | | | | 200 - |
| Mar 31 G. H. Moore #160 | 400 - | 27 - | 15 - | | | | 442 - | |
| Mar 31 Wm. Sims #160 | 400 - | 27 - | 15 - | | | | 442 - | |
| Mar 31 D. O. Taylor #141 | 400 - | 27 - | 15 - | | | | 442 - | |
| April 4 Victor L. Krupa #119 | | | | | | | | 200 - |
| April 18 H. J. Armstrong #375 | | | | | | | | 250 - |
| April 30 R. M. McCombs #160 | 400 - | 27 - | 15 - | | | | 442 - | |
| April 30 Wm. Sims #160 | 400 - | 27 - | 15 - | | | | 442 - | |
| April 30 D. O. Taylor #141 | 400 - | 27 - | 15 - | | | | 442 - | |
| 186 | | | | | | | | |

FORM C 10 Q

| 1959 | | SALARY | R.R. TAX | R.U.I.C. EXPENSE | PER DIEM | MISC. | DEBIT | CREDIT |
|------|----------------------------|--------|----------|------------------|----------|-------|--------|---------|
| 1 | Jan 1 B.G. Rockhold #887 | 500 - | 21 88 | 1050 | | | 532 38 | |
| 2 | 1 H.L. Dragmire #71 | 500 - | 21 88 | 1050 | | | 532 38 | |
| 3 | 5 C. Hildebrand | | | | | | | 1061 26 |
| 4 | 30 C. Hildebrand | | | | | | | 1068 26 |
| 5 | Feb 1 B.G. Rockhold #887 | 500 - | 21 88 | 1050 | | | 532 38 | |
| 6 | 1 H.L. Dragmire #71 | 500 - | 21 88 | 1050 | | | 532 38 | |
| 7 | 27 C. Hildebrand | | | | | | | 1064 76 |
| 8 | March 1 B.G. Rockhold #887 | 500 - | 21 88 | 1050 | | | 532 38 | |
| 9 | 1 H.L. Dragmire #71 | 500 - | 21 88 | 1050 | | | 532 38 | |
| 10 | 30 C. Hildebrand | | | | | | | 1064 76 |
| 11 | April 1 B.G. Rockhold #887 | 350 - | 21 88 | 1050 | | | 382 38 | |
| 12 | 1 H.L. Dragmire #71 | 350 - | 21 88 | 1050 | | | 382 38 | |
| 13 | 29 C. Hildebrand | | | | | | | 1064 76 |
| 14 | May 1 B.G. Rockhold #887 | 350 - | 21 88 | 1050 | | | 382 38 | |
| 15 | 1 H.L. Dragmire #71 | 350 - | 21 88 | 1050 | | | 382 38 | |
| 16 | 27 C. Hildebrand | | | | | | | 164 76 |
| 17 | June 1 B.G. Rockhold #887 | 400 - | 27 - | 15 - | | | 442 00 | |
| 18 | 1 H.L. Dragmire #71 | 400 - | 27 - | 15 - | | | 442 00 | |
| 19 | 1 C. Hildebrand | | | | | | | 119 24 |
| 20 | 29 C. Hildebrand | | | | | | | 884 00 |
| 21 | July 29 C. Hildebrand | | | | | | | 884 00 |
| 22 | 1 B.G. Rockhold #887 | 400 - | 27 - | 15 - | | | 442 - | |
| 23 | 1 H.L. Dragmire #71 | 400 - | 27 - | 15 - | | | 442 - | |
| 24 | Aug 1 B.G. Rockhold #887 | 400 - | 27 - | 15 - | | | 442 - | |
| 25 | 1 H.L. Dragmire #71 | 400 - | 27 - | 15 - | | | 442 - | |
| 26 | Sept 8 C. Hildebrand | | | | | | | 884 - |
| 27 | 30 C. Hildebrand | | | | | | | 884 - |
| 28 | 1 B.G. Rockhold #887 | 400 - | 27 - | 15 - | | | 442 - | |
| 29 | 1 H.L. Dragmire #71 | 400 - | 27 - | 15 - | | | 442 - | |
| 30 | Oct 30 C. Hildebrand | | | | | | | 884 - |
| 31 | 1 B.G. Rockhold #887 | 400 - | 27 - | 15 - | | | 442 - | |
| 32 | 1 H.L. Dragmire #71 | 400 - | 27 - | 15 - | | | 442 - | |
| 33 | Nov 1 B.G. Rockhold #887 | 400 - | 27 - | 15 - | | | 442 - | |
| 34 | 1 H.L. Dragmire #71 | 400 - | 27 - | 15 - | | | 442 - | |
| 35 | Dec 1 Clifton Hildebrand | | | | | | | 884 - |
| 36 | | | | | | | | |

FORM C 10 Q

| 1959 | | SALARY | R.R. TAX | R.U.I.C. EXPENSE | PER DIEM | MISC. | DEBIT |
|------|--------------------------------|--------|----------|------------------|-------------|-------|-------|
| 1 | Aug 10 Jacobs, Davis & Schmidt | | | | | | |
| 2 | 21 P.O. Adams # 712 | 89.48 | | 49.06 | 15 - | | 141 |
| 3 | Oct 27 C.A. Fackham # 369 | | | 27.32 | 5 - | | 3. |
| 4 | Dec 8 H.A. Morris (Dec) # 145 | | | | | | |
| 5 | | | | | | | 18 |
| 6 | | | | | 1959 Credit | | |
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| | | 1959 | SALARY | R.R. TAX | R.U.I.C. EXPENSE | PER DIEM | MISC. | DEBIT | CREDIT |
|----|--------|-------------------------|--------|----------|------------------|----------|-------|-------|--------|
| 1 | Aug 10 | Jacobs, Davis & Schmidt | | | | | | | 2171 - |
| 2 | 21 | P.O. Adams # 712 | 8448 | | 4906 | 15 - | | 14854 | |
| 3 | Oct 27 | C.A. Fackham # 369 | | | 2722 | 5 - | | 3272 | |
| 4 | Dec 8 | H.A. Morris (Dec) # 145 | | | | | | | 250 - |
| 5 | | | | | | | | 18126 | 2421 - |
| 6 | | | | | | | | | 223974 |
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1959 Credit

FORM C 10 Q

| | 1959 | | SALARY | R.R. TAX | R.U.I.C. | EXPENSE | PER DIEM | MISC. |
|----|---------|--------------------|--------|----------|----------|---------|----------|-------------|
| 1 | June 2 | C.C. Carroll # 721 | 5680 | | | 2430 | | |
| 2 | 3 | C.L. Tennant # 774 | 5632 | | | 2160 | 1500 | |
| 3 | 15 | C.L. Tennant # 774 | 5632 | | | 820 | 30- | |
| 4 | July 14 | C. W. Taylor # 939 | 5632 | | | 757 | 10- | |
| 5 | 14 | Lewis & Lewis | | | | | | |
| 6 | 17 | C.R. Deal # 302 | 8448 | | | 1863 | 20- | |
| 7 | 20 | H.S. Waddell # 652 | 8448 | | | 2131 | 1500 | |
| 8 | Aug 4 | R.H. Mayo # 429 | 2816 | | | 513 | 500 | |
| 9 | 20 | C.L. Tennant # 774 | 5632 | | | 3202 | 30- | |
| 10 | 28 | C.R. Deal # 302 | 11264 | 61 | 42 | 5301 | 60- | |
| 11 | Sept 9 | C.L. Tennant # 774 | 5632 | | | 3227 | 30- | |
| 12 | Dec 2 | H.S. Waddell # 652 | 8520 | | | 4290 | 15- | |
| 13 | | | | | | | | |
| 14 | | | | | | | | 1959 Credit |
| 15 | Nov 22 | H.S. Waddell # 652 | 5680 | | | 3001 | | |
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| C 100 | 1959 | SALARY | R.R. TAX | R.U.I.C. | EXPENSE | PER DIEM | MISC. | DEBIT | CREDIT |
|-------|---------------------------|--------|----------|----------|---------|----------|-------------|--------|--------|
| 1 | June 2 C.C. Carroll # 921 | 5680 | | | 8430 | | | 3030 | 1 |
| 2 | 3 C.L. Tennant # 794 | 5632 | | | 2160 | 1500 | | 9292 | 2 |
| 3 | 18 C.L. Tennant # 794 | 5632 | | | 820 | 30 - | | 9452 | 3 |
| 4 | July 14 C.W. Taylor # 929 | 5632 | | | 757 | 10 - | | 7389 | 4 |
| 5 | 11 Lewis & Lewis | | | | | | | 171450 | 5 |
| 6 | 17 C.L. Neal # 302 | 8448 | | | 1863 | 20 - | | 12311 | 6 |
| 7 | 20 H.L. Waddell # 652 | 8448 | | | 2831 | 1500 | | 12779 | 7 |
| 8 | Aug 4 R.H. Shanks # 429 | 2816 | | | 573 | 500 | | 3829 | 8 |
| 9 | 20 E.L. Tennant # 794 | 5632 | | | 3202 | 30 - | | 11834 | 9 |
| 10 | 28 E.L. Neal # 302 | 11264 | 61 | 42 | 5301 | 60 - | | 22660 | 10 |
| 11 | Sept 9 C.L. Tennant # 794 | 5632 | | | 3227 | 30 - | | 11859 | 11 |
| 12 | Dec 2 H.L. Waddell # 652 | 8520 | | | 4270 | 15 - | | 14290 | 12 |
| 13 | | | | | | | | 123733 | 13 |
| 14 | | | | | | | 1959 Credit | 47717 | 14 |
| 15 | Nov 22 H.L. Waddell # 652 | 5680 | | | 3001 | | | 8681 | 15 |
| 16 | | | | | | | | | 16 |
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FORM C 100

| | | | SALARY | R.R. TAX | R.U.I.C. | EXPENSE | PER DIEM | MISC. |
|------|-------|--------------------------|--------|----------|----------|---------|----------|-------|
| 1959 | | | | | | | | |
| 1 | Jan | 1 H.A. Chamberlain #520 | 400- | 2188 | 1050 | | | |
| 2 | | 1 H.A. M. Norton #516 | 400- | 2188 | 1050 | | | |
| 3 | Feb | 1 H.A. Chamberlain #520 | 400- | 2188 | 1050 | | | |
| 4 | | 1 H.A. M. Norton #516 | 400- | 2188 | 1050 | | | |
| 5 | Mar | 1 H.A. Chamberlain #520 | 400- | 2188 | 1050 | | | |
| 6 | | 1 H.A. M. Norton #516 | 400- | 2188 | 1050 | | | |
| 7 | April | 1 H.A. Chamberlain #520 | 350- | 2188 | 1050 | | | |
| 8 | | 1 H.A. M. Norton #516 | 350- | 2188 | 1050 | | | |
| 9 | May | 1 H.A. Chamberlain #520 | 350- | 2188 | 1050 | | | |
| 10 | | 1 H.A. M. Norton #516 | 350- | 2188 | 1050 | | | |
| 11 | June | 1 H.A. Chamberlain #520 | 400- | 2700 | 1500 | | | |
| 12 | | 1 H.A. M. Norton #516 | 400- | 2700 | 1500 | | | |
| 13 | | 10 H.A. M. Norton #516 | | | | 36474 | 240- | |
| 14 | | 12 H.A. Chamberlain #520 | | | | 15660 | 145- | |
| 15 | | 30 H.A. M. Norton #516 | | | | 16095 | 105- | |
| 16 | | 10 H.A. M. Norton #516 | | | | 16923 | 105- | |
| 17 | July | 1 H.A. Chamberlain #520 | | | | 1395 | 15- | |
| 18 | | 3 H.A. M. Norton #516 | | | | 16788 | 90- | |
| 19 | | 1 H.A. Chamberlain #520 | 400- | 2700 | 15- | | | |
| 20 | | 1 H.A. M. Norton #516 | 400- | 27- | 15- | | | |
| 21 | Aug | 4 H.A. Chamberlain #520 | | | | 17010 | 12000 | |
| 22 | | 23 H.A. M. Norton #516 | | | | 10535 | 105- | |
| 23 | | 1 H.A. Chamberlain #520 | 400- | 27- | 15- | | | |
| 24 | | 1 H.A. M. Norton #516 | 400- | 27- | 15- | | | |
| 25 | Sept | 1 H.A. M. Norton #516 | | | | 10662 | 95- | |
| 26 | | 2 H.A. Chamberlain #520 | | | | 15660 | 145- | |
| 27 | | 9 H.A. Chamberlain #520 | | | | 15142 | | |
| 28 | | 23 H.A. M. Norton #516 | | | | 11292 | 105- | |
| 29 | | 23 H.A. M. Norton #516 | | | | 7424 | 105- | |
| 30 | | 27 H.A. M. Norton #516 | | | | 7522 | 50- | |
| 31 | | 1 H.A. Chamberlain #520 | 400- | 27- | 15- | | | |
| 32 | | 1 H.A. M. Norton #516 | 400- | 27- | 15- | | | |
| 33 | Oct | 21 H.A. M. Norton #516 | | | | 15034 | 105- | |
| 34 | | 27 H.A. M. Norton #516 | | | | 10397 | 90- | |
| 35 | | 1 H.A. Chamberlain #520 | 400- | 27- | 15- | | | |
| 36 | | | | | | | | |



FORM C-10 Q

Account from 1957-54

| | | 1959 | SALARY | R.R. TAX | R.U.I.C. | EXPENSE | PER DIEM | MISC. | DEBIT | CREDIT | |
|----|-------|------------------------|--------|----------|----------|---------|----------|-------|-------|--------|----|
| 1 | Jan | 1 A.A. Clarkhead 520 | 400 - | 2188 | 1050 | | | | 43238 | | 1 |
| 2 | | 1 A.A. M's Norton 516 | 400 - | 2188 | 1050 | | | | 43238 | | 2 |
| 3 | Feb | 1 A.A. Clarkhead 520 | 400 - | 2188 | 1050 | | | | 43238 | | 3 |
| 4 | | 1 A.A. M's Norton 516 | 400 - | 2188 | 1050 | | | | 43238 | | 4 |
| 5 | Mar | 1 A.A. Clarkhead 520 | 400 - | 2188 | 1050 | | | | 43238 | | 5 |
| 6 | | 1 A.A. M's Norton 516 | 400 - | 2188 | 1050 | | | | 43238 | | 6 |
| 7 | April | 1 A.A. Clarkhead 520 | 350 - | 2188 | 1050 | | | | 38238 | | 7 |
| 8 | | 1 A.A. M's Norton 516 | 350 - | 2188 | 1050 | | | | 38238 | | 8 |
| 9 | May | 1 A.A. Clarkhead 520 | 350 - | 2188 | 1050 | | | | 38238 | | 9 |
| 10 | | 1 A.A. M's Norton 516 | 350 - | 2188 | 1050 | | | | 38238 | | 10 |
| 11 | June | 1 A.A. Clarkhead 520 | 400 - | 2700 | 1500 | | | | 44200 | | 11 |
| 12 | | 1 A.A. M's Norton 516 | 400 - | 2700 | 1500 | | | | 44200 | | 12 |
| 13 | | 10 A.A. M's Norton 516 | | | | 36474 | 240 - | | 60474 | | 13 |
| 14 | | 12 A.A. Clarkhead 520 | | | | 15660 | 145 - | | 30160 | | 14 |
| 15 | | 36 A.A. M's Norton 516 | | | | 16095 | 105 - | | 26595 | | 15 |
| 16 | | 30 A.A. M's Norton 516 | | | | 16923 | 105 - | | 27423 | | 16 |
| 17 | July | 1 A.A. Clarkhead 520 | | | | 1395 | 15 - | | 2895 | | 17 |
| 18 | | 8 A.A. M's Norton 516 | | | | 16788 | 90 - | | 25788 | | 18 |
| 19 | | 1 A.A. Clarkhead 520 | 400 - | 2700 | 15 - | | | | 442 - | | 19 |
| 20 | | 1 A.A. M's Norton 516 | 400 - | 27 - | 15 - | | | | 442 - | | 20 |
| 21 | Aug | 1 A.A. Clarkhead 520 | | | | 17010 | 10080 | | 29010 | | 21 |
| 22 | | 23 A.A. M's Norton 516 | | | | 10535 | 105 - | | 21035 | | 22 |
| 23 | | 1 A.A. Clarkhead 520 | 400 - | 27 - | 15 - | | | | 442 - | | 23 |
| 24 | | 1 A.A. M's Norton 516 | 400 - | 27 - | 15 - | | | | 442 - | | 24 |
| 25 | Sept | 1 A.A. M's Norton 516 | | | | 10562 | 75 - | | 18062 | | 25 |
| 26 | | 2 A.A. Clarkhead 520 | | | | 15660 | 145 - | | 32160 | | 26 |
| 27 | | 9 A.A. M's Norton 516 | | | | 15142 | | | 23590 | | 27 |
| 28 | | 23 A.A. M's Norton 516 | | | | 11292 | 105 - | | 21892 | | 28 |
| 29 | | 23 A.A. M's Norton 516 | | | | 7424 | 105 - | | 17924 | | 29 |
| 30 | | 29 A.A. M's Norton 516 | | | | 7522 | 50 - | | 12522 | | 30 |
| 31 | | 1 A.A. Clarkhead 520 | 400 - | 27 - | 15 - | | | | 442 - | | 31 |
| 32 | | 1 A.A. M's Norton 516 | 400 - | 27 - | 15 - | | | | 442 - | | 32 |
| 33 | Oct | 21 A.A. M's Norton 516 | | | | 15034 | 105 - | | 25534 | | 33 |
| 34 | | 29 A.A. M's Norton 516 | | | | 10397 | 90 - | | 19397 | | 34 |
| 35 | | 1 A.A. Clarkhead 520 | 400 - | 27 - | 15 - | | | | 442 - | | 35 |
| 36 | | | | | | | | | | | 36 |

| 1959 | SALARY | R.R. TAX | R.U.I.C. EXPENSE | PER DIEM | MISC. | DEBIT | CREDIT |
|---------------------------------|--------|----------|------------------|----------|-------|---------|--------|
| Oct 1 H.A.M. Norton #516 | 400- | 27- | 15- | | | 442- | 1 |
| Nov 3 H.A. Chickenshead #520 | | | 16695 | 80- | | 24695 | 2 |
| 12 H.A. M. Norton #516 | | | 27285 | 135- | | 40785 | 3 |
| 1 H.A. Chickenshead #520 | 400- | 27- | 15- | | | 442- | 4 |
| 1 H.A. M. Norton #516 | 400- | 27- | 15- | | | 442- | 5 |
| Dec 2 H.A. Chickenshead #520 | | | 15570 | 45- | | 20070 | 6 |
| 10 H.A. M. Norton #516 | | | 20009 | 120- | | 32009 | 7 |
| 22 H.A. M. Norton #516 | | | 19942 | 120- | | 31942 | 8 |
| 1 H.A. Chickenshead #520 | 400- | 2700 | 1500 | | | 44200 | 9 |
| 1 H.A. M. Norton #516 | 400- | 2700 | 1500 | | | 44200 | 10 |
| | | | | | | 1575042 | 11 |
| 1960 | | | | | | 1561042 | 12 |
| Jan 7 H.A. M. Norton #516 | | | 30489 | 90- | | 29489 | 13 |
| 7 H.A. Chickenshead #520 | | | 21150 | 140- | | 35150 | 14 |
| 31 H.A. Chickenshead #520 | 400- | 27- | 15- | | | 442- | 15 |
| Feb 29 H.A. Chickenshead #520 | 400- | 27- | 15- | | | 442- | 16 |
| 29 H.A. M. Norton #516 | 71724 | 405 | 440 | | | 12569 | 17 |
| Mar 31 Phil B. Suck | | | | | | 4054000 | 18 |
| 31 H.A. Chickenshead #520 | 400- | 27- | 15- | | | 442- | 19 |
| 31 H.A. M. Norton #516 | 400- | 27- | 15- | | | 442- | 20 |
| April 30 H.A. Chickenshead #520 | 410- | 27- | 15- | | | 442- | 21 |
| 30 H.A. M. Norton #516 | 400- | 27- | 15- | | | 442- | 22 |
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FORM C 10 G

| 1959 | | SALARY | R.R. TAX | R.U.I.C. | EXPENSE | PER DIEM | Credit from 19 | | |
|------|----------|------------------|---|----------|---------|----------|----------------|------|-----|
| | | | | | | | MISC. | DEBT | |
| 1 | Jan 1 | R.E. Shells #648 | 450- | 2188 | 1050 | | | 4 | |
| 2 | 12 | Don M. Glynn | | | | | | | |
| 3 | Feb 1 | R.E. Shells #648 | 450- | 2188 | 1050 | | | 4 | |
| 4 | March 1 | R.E. Shells #648 | 450- | 2188 | 1050 | | | 4 | |
| 5 | 16 | Don M. Glynn | | | | | | | |
| 6 | April 1 | R.E. Shells #648 | 350- | 2188 | 1050 | | | 3 | |
| 7 | May 1 | R.E. Shells #648 | 350- | 2188 | 1050 | | | 5 | |
| 8 | June 1 | R.E. Shells #648 | 400- | 27- | 15- | | | 4 | |
| 9 | 19 | Don M. Glynn | | | | | | | |
| 10 | 30 | R.E. Shells #648 | | | | 4857 | 30- | | |
| 11 | July 21 | R.E. Shells #648 | | | | 3267 | 30- | | |
| 12 | March 30 | R.E. Shells #648 | (Stationery + office supplies - paid By Shells) | | | | | | |
| 13 | July 1 | R.E. Shells #648 | 400- | 27- | 15- | | | 4 | |
| 14 | Aug 1 | R.E. Shells #648 | 400- | 27- | 15- | | | 4 | |
| 15 | Sept 20 | R.E. Shells #648 | | | | 6768 | 30- | | |
| 16 | 1 | R.E. Shells #648 | 400- | 27- | 15- | | | 4 | |
| 17 | Oct 1 | R.E. Shells #648 | 400- | 27- | 15- | | | 4 | |
| 18 | Nov 30 | R.E. Shells #648 | (Stationery + office supplies sent to Shells) | | | | | | 575 |
| 19 | Nov 1 | R.E. Shells #648 | 400- | 27- | 15- | | | 4 | |
| 20 | Dec 1 | R.E. Shells #648 | 400- | 27- | 15- | | | 4 | |
| 21 | 1960 | | | | | | 1959 Credit | 55 | |
| 22 | Jan 31 | R.E. Shells #648 | 400- | 27- | 15- | | | 4 | |
| 23 | Feb 28 | R.E. Shells #648 | 400- | 27- | 15- | | | 4 | |
| 24 | Mar 31 | R.E. Shells #648 | 400- | 27- | 15- | | | 4 | |
| 25 | April 30 | R.E. Shells #648 | 400- | 27- | 15- | | | 4 | |
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MAILED
JULY 1960
U.S. DEPT. OF JUSTICE
WASHINGTON, D.C.

MC 10 Q

| 1959 | | SALARY | R.R. TAX | R.U.I.C. EXPENSE | PER DIEM | Credit from 1958 - 1959 | | |
|------|----------|------------------|---|------------------|----------|-------------------------|-------|--------|
| | | | | | | MISC. | DEBIT | CREDIT |
| 1 | Jan 1 | R.E. Shills #648 | 450- | 2188 | 1050 | | 48238 | |
| 2 | 12 | Don M's Glynn | | | | | | 975- |
| 3 | Feb 1 | R.E. Shills #648 | 450- | 2188 | 1050 | | 48238 | |
| 4 | March 1 | R.E. Shills #648 | 450- | 2188 | 1050 | | 48238 | |
| 5 | 16 | Don M's Glynn | | | | | | 950- |
| 6 | April 1 | R.E. Shills #648 | 350- | 2188 | 1050 | | 38238 | |
| 7 | May 1 | R.E. Shills #648 | 350- | 2188 | 1050 | | 38238 | |
| 8 | June 1 | R.E. Shills #648 | 400- | 27- | 15- | | 44200 | |
| 9 | 19 | Don M's Glynn | | | | | | 7500- |
| 10 | 30 | R.E. Shills #648 | | | 4857 | 30- | 7857 | |
| 11 | July 21 | R.E. Shills #648 | | | 3267 | 30- | 6267 | |
| 12 | March 30 | R.E. Shills #648 | (Stationery + office supplies - paid By Shills) | | | | | 575 |
| 13 | July 1 | R.E. Shills #648 | 400- | 27- | 15- | | 442- | |
| 14 | Aug 1 | R.E. Shills #648 | 400- | 27- | 15- | | 442- | |
| 15 | Sept 28 | R.E. Shills #648 | | | 6768 | 30- | 9768 | |
| 16 | 1 | R.E. Shills #648 | 400- | 27- | 15- | | 442- | |
| 17 | Oct 1 | R.E. Shills #648 | 400- | 27- | 15- | | 442- | |
| 18 | Nov 30 | R.E. Shills #648 | (Stationery + office supplies sent to Shills) | | | | 575 | 575 |
| 19 | Nov 1 | R.E. Shills #648 | 400- | 27- | 15- | | 442- | |
| 20 | Dec 1 | R.E. Shills #648 | 400- | 27- | 15- | | 442- | |
| 21 | 1960 | | | | | | 442- | |
| 22 | Jan 31 | R.E. Shills #648 | 400- | 27- | 15- | | 442- | |
| 23 | Feb 28 | R.E. Shills #648 | 400- | 27- | 15- | | 442- | |
| 24 | Mar 31 | R.E. Shills #648 | 400- | 27- | 15- | | 442- | |
| 25 | April 30 | R.E. Shills #648 | 400- | 27- | 15- | | 442- | |
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1959 Credit

555057 957901

FORM C 10 Q

| 1959 | | SALARY | R.R. TAX | R.U.I.C. | EXPENSE | PER DIEM | MISC. | DEBIT | CREDIT |
|------|---|--------|----------|----------|-------------|----------|-------|-------|--------|
| 1 | June 18 Ramsey R. & R. | | | | | | | | 2090 - |
| 2 | Sept 9 (12-13) | 5632 | | | 729 | 10 - | | 7361 | |
| 3 | Oct 21 J. P. Salter #669 | 2816 | | | 315 | 5 - | | 3631 | |
| 4 | 22 J. J. Walker #317 | 8448 | | | 427 | 15 - | | 10375 | |
| 5 | Nov 12 J. J. Walker #317 | 2816 | | | 108 | 5 - | | 3424 | |
| 6 | 13 W. A. Hunt #347 | 11312 | | | 1920 | | | 13232 | |
| 7 | 16 W. A. Hunt #347 | 5656 | | | 1046 | 10 - | | 7702 | |
| 8 | 23 W. A. Hunt #347 | 2840 | | | 602 | 500 | | 3942 | |
| 9 | Dec 2 H. J. Whitman #710 | 2816 | | | 2160 | 500 | | 5476 | |
| 10 | 3 Ramsey, Ramsey #669 | | | | | | | | 19879 |
| 11 | 4 Ramsey, Ramsey #669 | | | | | | | | 5680 |
| 12 | 11 W. A. Hunt #347 | 2840 | | | 481 | 500 | | 3821 | |
| 13 | 14 Ramsey, Ramsey #669 | | | | | | | | 9281 |
| 14 | 14 W. A. Hunt #347 | 5680 | | | 1140 | 500 | | 7320 | |
| 15 | 18 J. J. Walker #317 | 8520 | | | 3519 | 15 - | | 13539 | |
| 16 | | | | | | | | 79823 | 209457 |
| 17 | 1960 | | | | 1959 Credit | | | 21963 | |
| 18 | Jan 7 Ramsey R. & R. (Credit to 1959 figures) | | | | | | | | 55617 |
| 19 | 7 W. A. Hunt #347 | 5680 | | | 1369 | 10 - | | 8049 | |
| 20 | 13 Ramsey, Ramsey #669 | | | | | | | | 4203 |
| 21 | 13 Ramsey, Ramsey #669 | | | | | | | | 7920 |
| 22 | 15 W. A. Hunt #347 | 5680 | | | 1224 | 5 - | | 7404 | |
| 23 | 22 W. A. Hunt #347 | 2840 | | | 788 | 5 - | | 4122 | |
| 24 | Mar 16 W. A. Hunt #347 | 2840 | | | 1044 | 5 - | | 4384 | |
| 25 | 21 Ramsey, Ramsey R. | | | | | | | | 10484 |
| 26 | April 1 J. P. Salter #669 | | | | 330 | | | 330 | |
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FORM C 10 Q

1959

SALARY R.R. TAX R.U.I.C. EXPENSE PER DIEM MISC. DEBIT CREDIT

| | | | | | | | | | | |
|----|--------|-------------------|-------|------|------|--------|-----|--|--------|----|
| 1 | Aug 20 | E. R. Mader (for) | | | | 157.54 | 60- | | 217.34 | 1 |
| 2 | 20 | H. J. Smith (for) | 28.16 | 1.90 | 1.07 | 2.638 | 5- | | 62.51 | 2 |
| 3 | | | | | | | | | 279.85 | 3 |
| 4 | | | | | | | | | 279.85 | 4 |
| 5 | | | | | | | | | | 5 |
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1959 Debit

MC 100

| | | 1959 | SALARY | R.R. TAX | R.U.T.C. EXPENSE | PER DIEM | MISC. | DEBIT | CREDIT | |
|----|--------|-------------------------|--------|----------|------------------|----------|-------|--------|--------|----|
| 1 | Jan | 1 S. Duncan #293 | 825 - | 2188 | 1050 | | | 85738 | | 1 |
| 2 | | 1 M.B. Nicholls #98 | 350 - | 2188 | 1050 | | | 38238 | | 2 |
| 3 | | 12 C. W. Rawlings | | | | | | | 123626 | 3 |
| 4 | Feb | 1 S. Duncan #293 | 825 - | 2188 | 1050 | | | 85738 | | 4 |
| 5 | | 1 M.B. Nicholls #98 | 350 - | 2188 | 1050 | | | 38238 | | 5 |
| 6 | | 11 C. W. Rawlings | | | | | | | 124326 | 6 |
| 7 | Mar. | 1 S. Duncan #293 | 825 - | 2188 | 1050 | | | 85738 | | 7 |
| 8 | | 1 M.B. Nicholls #98 | 350 - | 2188 | 1050 | | | 38238 | | 8 |
| 9 | | 13 C. W. Rawlings | | | | | | | 123976 | 9 |
| 10 | April | 1 S. Duncan #293 | 350 - | 2188 | 1050 | | | 38238 | | 10 |
| 11 | | M.B. Nicholls #98 | 350 - | 2188 | 1050 | | | 38238 | | 11 |
| 12 | May | 1 M.B. Nicholls #98 | 350 - | 2188 | 1050 | | | 38238 | | 12 |
| 13 | April | 20 L.A. Pittman #733 | | | | | | | 1000 - | 13 |
| 14 | May | 6 S. Duncan #293 | | | 5374 | | | 5374 | | 14 |
| 15 | | 29 J.M. Polinsky #98 | | | | | | 250 - | | 15 |
| 16 | June | 1 M.B. Nicholls #98 | 350 - | 2263 | 1312 | | | 38575 | | 16 |
| 17 | | 19 M.B. Nicholls #98 | | | 27194 | 155 - | | 42694 | | 17 |
| 18 | July | 7 M.B. Nicholls #98 | | | 15004 | 90 - | | 24004 | | 18 |
| 19 | | 1 M.B. Nicholls #98 | 350 - | 2263 | 1312 | | | 38575 | | 19 |
| 20 | Nov | 2 J.C. Christopher #733 | | | | | | | 900 - | 20 |
| 21 | | | | | | | | 635864 | 586928 | 21 |
| 22 | | | | | | | | 48936 | | 22 |
| 23 | | | | | | | | | | 23 |
| 24 | 1960 | | | | | | | | | 24 |
| 25 | Mar 16 | Calvin W. Rawlings | | | | | | | 150. | 25 |
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1959 Debit

FORM C 10 Q

| 1959 | | | SALARY | R.R. TAX | R.U.I.C. | EXPENSE | PER DIEM | MISC. | DEBIT | CREDIT |
|------|---------|----------------------------|--------|----------|----------|---------|----------|-------|---------|---------|
| 1 | Jan 1 | H. J. Rerat #625 | 350 - | 21 88 | 10 50 | | | | 382 38 | 1 |
| 2 | Feb 1 | H. J. Rerat #625 | 350 - | 21 88 | 10 50 | | | | 382 38 | 2 |
| 3 | 9 | E. A. Rerat | | | | | | | | 380 63 |
| 4 | 16 | E. A. Rerat | | | | | | | | 384 15 |
| 5 | Mar 1 | H. J. Rerat #625 | 350 - | 21 88 | 10 50 | | | | 382 38 | 5 |
| 6 | 9 | E. A. Rerat | | | | | | | | 382 38 |
| 7 | April 1 | H. J. Rerat #625 | 350 - | 21 88 | 10 50 | | | | 382 38 | 7 |
| 8 | May 1 | H. J. Rerat #625 | 350 - | 21 88 | 10 50 | | | | 382 38 | 8 |
| 9 | 28 | H. J. Schwendy #102 | | | | | | | | 750 - |
| 10 | June 1 | H. J. Rerat #625 | 400 - | 27 00 | 15 00 | | | | 442 - | 10 |
| 11 | July 1 | H. J. Rerat #625 | 400 - | 27 - | 15 - | | | | 442 - | 11 |
| 12 | Aug 3 | H. Tollund #450 | | | | | | | | 750 - |
| 13 | 3 | J. J. Rasmussen #1015 | | | | | | | | 750 - |
| 14 | 28 | H. J. Spencer #196 | 140 80 | | | 88 71 | 65 - | | 294 51 | 14 |
| 15 | 1 | H. J. Rerat #625 | 400 - | 27 - | 15 - | | | | 442 - | 15 |
| 16 | 28 | H. J. Rerat #625 | | | | 91 51 | 36 - | | 181 51 | 16 |
| 17 | 1 | H. J. Rerat #625 | 400 - | 27 - | 15 - | | | | 442 00 | 17 |
| 18 | Oct 7 | H. J. Spencer #196 | 56 32 | | | 122 4 | 10 - | | 78 56 | 18 |
| 19 | 1 | H. J. Rerat #625 | 400 - | 27 - | 15 - | | | | 442 - | 19 |
| 20 | Nov 12 | H. J. Spencer #196 | 28 16 | | | 8 78 | 5 - | | 41 94 | 20 |
| 21 | 1 | H. J. Rerat #625 | 400 - | 27 - | 15 - | | | | 442 - | 21 |
| 22 | Dec 8 | H. J. Spencer #196 | 28 40 | | | 7 78 | 5 00 | | 41 8 | 22 |
| 23 | 9 | Walter M. Rasmussen #450 | | | | | | | | 1000 - |
| 24 | 1 | H. J. Rerat #625 | 400 - | 27 - | 15 - | | | | 442 - | 24 |
| 25 | 1960 | (see p. 6) | | | | | | | 5573 66 | 439 714 |
| 26 | Jan 12 | H. J. Spencer #196 | 85 20 | | | 6 12 | 35 00 | | 126 32 | 26 |
| 27 | 31 | H. J. Rerat #625 | 400 - | 27 - | 15 - | | | | 442 - | 27 |
| 28 | Feb 12 | H. J. Spencer #196 | 28 40 | | | 20 52 | 5 - | | 53 92 | 28 |
| 29 | Mar 29 | H. J. Rerat #625 | 400 - | 27 - | 15 - | | | | 442 - | 29 |
| 30 | Mar 7 | H. J. Spencer #196 | 56 80 | | | 15 48 | 10 - | | 82 28 | 30 |
| 31 | 31 | H. J. Rerat #625 | 400 - | 27 - | 15 - | | | | 442 - | 31 |
| 32 | April 5 | H. J. Spencer #196 | 172 40 | | | 56 24 | 120 00 | | 347 24 | 32 |
| 33 | 7 | H. J. Rasmussen (see) #450 | | | | | | | | 1000 - |
| 34 | 7 | C. A. Burton #833 | | | | | | | | 75 - |
| 35 | 7 | E. Collins #41 | | | | | | | | 185 - |
| 36 | | | | | | | | | | |

1959 Debit

| | | SALARY | R.R. TAX | R.U.I.C. | EXPENSE | PER DIEM | MISC. | DEBIT | CREDIT | |
|----|-----------------------------|--------|----------|----------|---------|----------|-------|-------|--------|----|
| 1 | 1960 | | | | | | | | | 1 |
| 2 | April 7 Bert Claberry # 204 | | | | | | | | 1250 - | 2 |
| 3 | 7 Ray Tullis # 737 | | | | | | | | 750 - | 3 |
| 4 | 30 Mrs. Rerat # 625 | 400 - | 27 - | 15 - | | | | 442 - | | 4 |
| 5 | May 27 C A Rerat | | | | | | | | 251 76 | 5 |
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FORM C 10 Q

| | 1959 | | SALARY | R.R. TAX | R.U.I.C. | EXPENSE | PER DIEM | MISC. | DEBIT | CREDIT | |
|----|---------|--------------------|--------|----------|----------|---------|----------|-------|--------|--------|----|
| 1 | Jan | 1 R.T. Miller #736 | 350- | 2188 | 1050 | | | | 38238 | | 1 |
| 2 | | 1 N.W. Tingle #124 | 350- | 2188 | 1050 | | | | 38238 | | 2 |
| 3 | Feb | 1 R.T. Miller #736 | 350- | 2188 | 1050 | | | | 38238 | | 3 |
| 4 | | 1 N.W. Tingle #124 | 350- | 2188 | 1050 | | | | 38238 | | 4 |
| 5 | Mar | 1 R.T. Miller #736 | 350- | 2188 | 1050 | | | | 38238 | | 5 |
| 6 | | 1 N.W. Tingle #124 | 350- | 2188 | 1050 | | | | 38238 | | 6 |
| 7 | | 9 B.M. Savage | | | | | | | | 152952 | 7 |
| 8 | April | 1 R.T. Miller #736 | 350- | 2188 | 1050 | | | | 38238 | | 8 |
| 9 | | 1 N.W. Tingle #124 | 350- | 2188 | 1050 | | | | 38238 | | 9 |
| 10 | May | 1 R.T. Miller #736 | 350- | 2188 | 1050 | | | | 38238 | | 10 |
| 11 | | 1 N.W. Tingle #124 | 350- | 2188 | 1050 | | | | 38238 | | 11 |
| 12 | June | 1 R.T. Miller #736 | 400- | 27- | 15- | | | | 44200 | | 12 |
| 13 | | 1 N.W. Tingle #124 | 400- | 27- | 15- | | | | 442- | | 13 |
| 14 | July | 1 R.T. Miller #736 | 400- | 27- | 15- | | | | 442- | | 14 |
| 15 | | 1 N.W. Tingle #124 | 400- | 27- | 15- | | | | 442- | | 15 |
| 16 | Aug | 1 B.M. Savage | | | | | | | | 6800- | 16 |
| 17 | | 1 R.T. Miller #736 | 400- | 27- | 15- | | | | 442- | | 17 |
| 18 | | 1 N.W. Tingle #124 | 400- | 27- | 15- | | | | 442- | | 18 |
| 19 | Sept | 1 N.W. Tingle #124 | 400- | 27- | 15- | | | | 442- | | 19 |
| 20 | Oct | 1 N.W. Tingle #124 | 400- | 27- | 15- | | | | 442- | | 20 |
| 21 | Nov | 1 N.W. Tingle #124 | 400- | 27- | 15- | | | | 442- | | 21 |
| 22 | Dec | 1 N.W. Tingle #124 | 400- | 27- | 15- | | | | 442- | | 22 |
| 23 | | | | | | | | | 824380 | 832952 | 23 |
| 24 | 1960 | | | | | | | | | 8572 | 24 |
| 25 | Feb 29 | 1 N.W. Tingle #124 | 117.24 | 405 | 440 | | | | 12569 | | 25 |
| 26 | Mar 3 | 1 N.W. Tingle #124 | 34239 | 2352 | 1306 | | | | 38797 | | 26 |
| 27 | April 5 | 1 N.W. Tingle #124 | 450- | 27- | 15- | | | | 442- | | 27 |
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1959 Credit

FORM C 10 Q

| 1959 | | SALARY | R.R. TAX | R.U.I.C. | EXPENSE | PER DIEM | MISC. | DEBIT | CREDIT |
|------|---------|----------------------|----------|----------|---------|----------|-------|---------|-----------------------------|
| 1 | April 1 | T.B. Yaeger #804 | 350 - | 21 88 | 10 60 | | | 382 38 | 1 |
| 2 | May 1 | T.B. Yaeger #804 | 350 - | 21 88 | 10 50 | | | 382 38 | 2 |
| 3 | June 1 | T.B. Yaeger #804 | 400 - | 27 - | 15 - | | | 442 - | 3 |
| 4 | July 1 | Yaeger + Yaeger | | | | | | | 3480 - |
| 5 | 1 | T.B. Yaeger #804 | 400 - | 27 - | 15 - | | | 442 - | 5 |
| 6 | Aug 1 | T.B. Yaeger #804 | 400 - | 27 - | 15 - | | | 442 - | 6 |
| 7 | Sept 1 | T.B. Yaeger #804 | 400 - | 27 - | 15 - | | | 442 - | 7 |
| 8 | Sept 25 | M.L. Grandberg #897 | | | | | | | 300 - |
| 9 | 25 | D.D. Clemence #191 | | | | | | | 300 - |
| 10 | 25 | R.E. Ralph #151 | | | | | | | 300 - |
| 11 | Oct 5 | A.T. Hager #944 | | | | | | | 300 - |
| 12 | 5 | E.L. Johnson #384 | | | | | | | 300 - |
| 13 | 5 | L.L. Jones #183 | | | | | | | 300 - |
| 14 | 5 | E. Malpede #562 | | | | | | | 300 - |
| 15 | 5 | M.E. Ruppert #436 | | | | | | | 300 - |
| 16 | 5 | G.M. W. Herritt #445 | | | | | | | 300 - |
| 17 | 5 | R.C. Ziem #638 | | | | | | | 300 - |
| 18 | 1 | T.B. Yaeger #804 | 400 - | 27 - | 15 - | | | 442 - | 18 |
| 19 | Nov 1 | T.B. Yaeger #804 | 400 - | 27 - | 15 - | | | 442 - | 19 |
| 20 | Dec 1 | T.B. Yaeger #804 | 400 - | 27 - | 15 - | | | 442 - | 20 |
| 21 | 30 | K.S. Bruntz #888 | | | | | | | |
| 22 | 1960 | | | | | | | 3858 96 | 243 - 67 23 - 2864 28 |
| 23 | Jan 31 | T.B. Yaeger #804 | 400 - | 27 - | 15 - | | | 442 - | 23 |
| 24 | Feb 29 | T.B. Yaeger #804 | 400 - | 27 - | 15 - | | | 442 - | 24 |
| 25 | Mar 31 | T.B. Yaeger #804 | 400 - | 27 - | 15 - | | | 442 - | 25 |
| 26 | April 5 | Yaeger + Yaeger | | | | | | | 1000 - |
| 27 | 30 | T.B. Yaeger #804 | 400 - | 27 - | 15 - | | | 442 - | 27 |
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1959 Credit

FORM C 10 Q

| | 1959 | | SALARY | R.R. TAX | R.U.I.C. | EXPENSE | PER DIEM | MISC | DEBIT |
|----|---------|---|--------|----------|----------|---------|----------|------|-------|
| 1 | May 14 | H. J. Endy # 598 (April) | 56320 | | | 25973 | 125 - | | 947 |
| 2 | 14 | H. M. Flynn # 577 (April) | 36608 | 2188 | 1050 | 11670 | 75 - | | 590 |
| 3 | June 2 | H. J. Endy # 598 (May) | 19712 | | | 7956 | 45 - | | 321 |
| 4 | 8 | H. M. Flynn # 577 (May) | 36608 | 2188 | 1050 | 11611 | 65 - | | 579 |
| 5 | 18 | H. J. Endy # 598 (May) | 22528 | | | 8285 | 50 - | | 358 |
| 6 | 29 | L. Dagnellon # 1090 (May) | | | | | | | |
| 7 | 30 | H. J. Endy # 598 (May) | 19712 | | | 13311 | 40 - | | 370 |
| 8 | July 10 | H. J. Endy # 598 (June 18, 24, 30, 31) | 19712 | | | 13894 | 55 - | | 391 |
| 9 | 14 | H. Sullivan # 959 | | | | | | | |
| 10 | 15 | A. Napolitano # 1069 | | | | | | | |
| 11 | 16 | H. M. Flynn # 577 | 42240 | 2700 | 15 - | 12897 | 95 - | | 682 |
| 12 | 17 | D. Ryan # 598 | | | | | | | |
| 13 | 20 | M. Gibbons # 959 | | | | | | | |
| 14 | 20 | L. Bealy # 946 | | | | | | | |
| 15 | 22 | A. W. Mitchell # 517 (July 3, 4, 5, 6, 7, 10, 11) | | | | | | | |
| 16 | 22 | H. J. Endy # 598 X | 19712 | 1331 | 739 | 13443 | 55 - | | 409 |
| 17 | 27 | Walker # 598 | | | | | | | |
| 18 | 27 | Frank Moore # 598 (July 3, 4, 5, 6, 7, 10, 11) | | | | | | | |
| 19 | Aug 10 | H. J. Endy # 598 X | 22528 | 1521 | 845 | 11621 | 60 - | | 426 |
| 20 | 21 | E. J. # 1054 | | | | | | | |
| 21 | 24 | H. J. Endy # 598 X | 22528 | 1521 | 845 | 9575 | 60 - | | 404 |
| 22 | 28 | H. M. Flynn # 577 (July 12, 14, 25, 30, 31) | 39444 | 2661 | 1478 | 8064 | 95 - | | 611 |
| 23 | Sept 8 | L. Adams # 946 | | | | | | | |
| 24 | 9 | H. J. Endy # 598 X | 19712 | 1331 | 739 | 12701 | 35 - | | 379 |
| 25 | 11 | G. A. Brown # 1090 | | | | | | | |
| 26 | 11 | L. V. Zisch # 1047 | | | | | | | |
| 27 | 21 | B. Threlton # 1069 (Sept 5, 6, 7, 10, 11, 12) | | | | | | | |
| 28 | 23 | H. J. Endy # 598 X | 19712 | 1331 | 739 | 13508 | 35 - | | 382 |
| 29 | 24 | Joseph Bronde # 961 | | | | | | | |
| 30 | 24 | Zelenko & Elkind (for supplies) | | | | | | | |
| 31 | 28 | J. Murphy # 1047 | | | | | | | |
| 32 | 30 | Frank Shuter # 623 | | | | | | | |
| 33 | Oct 5 | C. T. Turlong # 961 | | | | | | | |
| 34 | 5 | H. J. Ryan, Jr. # 1069 | | | | | | | |
| 35 | 5 | R. L. # 197 | | | | | | | |
| 36 | | | | | | | | | |



| 1 C 10 9 | 1959 | | SALARY | R.R. TAX | R.U.I.C. | EXPENSE | PER DIEM | MISC | DEBIT | CREDIT | |
|----------|---------|---------------------------------|--------|----------|----------|---------|----------|------|-------|--------|----|
| 1 | May 14 | H. J. Endy # 598 | 56320 | | | 25973 | 125 - | | 94793 | 1 | |
| 2 | 14 | H. M. Lynn # 517 | 36608 | 2188 | 1050 | 11670 | 75 - | | 59016 | 2 | |
| 3 | June 2 | H. J. Endy # 598 | 19712 | | | 7956 | 45 - | | 32168 | 3 | |
| 4 | 8 | H. M. Lynn # 517 | 36608 | 2188 | 1050 | 11611 | 65 - | | 57957 | 4 | |
| 5 | 18 | H. J. Endy # 598 | 22528 | | | 8285 | 50 - | | 35813 | 5 | |
| 6 | 29 | J. Dagnell # 1090 | | | | | | | | 250 - | 6 |
| 7 | 30 | H. J. Endy # 598 | 19712 | | | 13311 | 40 - | | 37023 | 7 | |
| 8 | July 10 | H. J. Endy # 598 | 19712 | | | 13894 | 55 - | | 39106 | 8 | |
| 9 | 14 | H. Sutton # 959 | | | | | | | | 150 - | 9 |
| 10 | 15 | A. Napolitano # 1069 | | | | | | | | 250 - | 10 |
| 11 | 16 | H. M. Lynn # 517 | 42240 | 2700 | 15 - | 12897 | 95 - | | 68837 | 11 | |
| 12 | 17 | D. Ryan # 598 | | | | | | | | 100 - | 12 |
| 13 | 20 | M. Gibbons # 959 | | | | | | | | 100 - | 13 |
| 14 | 20 | L. Bialy # 946 | | | | | | | | 200 - | 14 |
| 15 | 22 | H. W. Mitchell # 517 | | | | | | | | 100 - | 15 |
| 16 | 22 | H. J. Endy # 598 X | 19712 | 1331 | 739 | 13643 | 55 - | | 40925 | 16 | |
| 17 | 27 | Walter Crater # 598 | | | | | | | | 100 - | 17 |
| 18 | 27 | Frank Moore # 959 | | | | | | | | 100 - | 18 |
| 19 | Aug 10 | H. J. Endy # 598 X | 22528 | 1521 | 845 | 11621 | 60 - | | 42515 | 19 | |
| 20 | 21 | E. J. Ivey # 1054 | | | | | | | | 100 - | 20 |
| 21 | 24 | H. J. Endy # 598 X | 22528 | 1521 | 845 | 9575 | 60 - | | 40469 | 21 | |
| 22 | 28 | H. M. Lynn # 517 | 39444 | 2661 | 1478 | 8064 | 95 - | | 61127 | 22 | |
| 23 | Sept 8 | L. Adams # 946 | | | | | | | | 100 - | 23 |
| 24 | 9 | H. J. Endy # 598 X | 19712 | 1331 | 739 | 12701 | 35 - | | 37983 | 24 | |
| 25 | 11 | J. A. Brice # 1090 | | | | | | | | 200 - | 25 |
| 26 | 11 | L. V. Zerkow # 1047 | | | | | | | | 750 - | 26 |
| 27 | 21 | R. Abraham # 1069 | | | | | | | | 100 - | 27 |
| 28 | 23 | H. J. Endy # 598 X | 19712 | 1331 | 739 | 13508 | 35 - | | 38790 | 28 | |
| 29 | 24 | Joseph Branda # 961 | | | | | | | | 100 - | 29 |
| 30 | 24 | Zelenko & Elkind (for supplies) | | | | | | | | 550 - | 30 |
| 31 | 28 | J. Murphy # 1047 | | | | | | | | 100 - | 31 |
| 32 | 30 | Frank Shuter # 623 | | | | | | | | 150 - | 32 |
| 33 | Oct 5 | C. T. Furlong # 961 | | | | | | | | 250 - | 33 |
| 34 | 5 | H. J. Ryan, Jr. # 1069 | | | | | | | | 100 - | 34 |
| 35 | 5 | R. W. I. Young # 197 | | | | | | | | 100 - | 35 |
| 36 | | | | | | | | | | | 36 |

ZELENKO & ELKIND (Cont.)

[fol. 1202]

| 1959 | SALARY | R.R. TAX | R.U.I.C. | EXPENSE | PER DIEM | MES. | DEBIT | CREDIT |
|--------------------------------|--------|----------|----------|---------|----------|------|---------|---------|
| 1 Oct 6 H. J. Endy # 598 | 22520 | 1521 | 845 | 13824 | 40 - | | 42718 | |
| 2 8 E. La Bounte # 398 | | | | | | | | 100 - |
| 3 8 A. Johnson # 1090 | | | | | | | | 150 - |
| 4 6 J. J. Klink # 731 | 8448 | 570 | 317 | 1674 | | | 11009 | |
| 5 12 C. J. Gallagher # 517 | | | | | | | | 250 - |
| 6 12 A. M. Flynn # 517 | 16896 | | | 4122 | 50 - | | 26018 | |
| 7 12 A. M. Flynn # 517 | 42240 | 27 - | 15 - | 152 - | 105 - | | 72140 | |
| 8 19 M. J. O'Brien # 1069 | | | | | | | | 100 - |
| 9 21 J. M. O'Brien # 755 | | | | | | | | 100 - |
| 10 21 J. J. Klink # 731 | | | | | | | | |
| 11 22 H. J. Endy # 598 | 22520 | 1521 | 845 | 13042 | 40 - | 2090 | 2090 | |
| 12 26 J. J. O'Brien # 678 | | | | | | | 41936 | |
| 13 Nov 9 J. J. O'Brien # 1069 | | | | | | | | 100 - |
| 14 9 Frank Shaw # 678 | | | | | | | | 100 - |
| 15 11 E. P. Keras # 1069 | | | | | | | | 200 - |
| 16 17 J. J. O'Brien # 1069 | | | | | | | | 100 - |
| 17 24 J. J. O'Brien # 1069 | | | | | | | 550 - | |
| 18 Nov 12 H. J. Endy # 598 | 19912 | 1331 | 739 | 10269 | 45 - | | 36551 | |
| 19 12 H. J. Endy # 598 | | | | | | | | 150 - |
| 20 19 J. T. Keras # 861 | | | | | | | | 100 - |
| 21 20 J. J. O'Brien # 552 | | | | | | | | 100 - |
| 22 23 C. O'Brien # 598 | | | | | | | | 100 - |
| 23 23 H. J. Endy # 598 | 19880 | 1342 | 746 | 11186 | 35 - | | 36654 | |
| 24 24 J. J. O'Brien # 827 | | | | | | | | 100 - |
| 25 Dec 7 E. J. Fox # 1054 | | | | | | | | 200 - |
| 26 10 J. J. O'Brien # 197 | | | | | | | | 100 - |
| 27 10 H. J. Endy # 598 | 22720 | 1358 | 852 | 13269 | 40 - | | 42149 | |
| 28 14 John A. O'Brien # 765 | | | | | | | | 100 - |
| 29 17 Vincent J. O'Brien # 109 | | | | | | | | 100 - |
| 30 18 H. J. Endy # 598 | 19880 | 1342 | 850 | 9919 | 35 - | | 35491 | |
| 31 21 J. J. O'Brien # 517 | | | | | | | | 9300 - |
| 32 22 A. M. Flynn # 517 | 820 - | 5384 | 2991 | 14630 | 165 - | | 125505 | |
| 33 24 J. J. O'Brien # 517 | | | | | | | | 100 - |
| 34 28 Paul L. O'Brien # 750 | | | | | | | | 100 - |
| 35 31 A. M. Flynn # 517 | 45440 | 27 - | 15 - | 14258 | 10 - | | 69898 | |
| 36 | | | | | | | 1283731 | 1575000 |

Zelanko + Elkind (Sheet # 2)

[fol. 1203]

FORM C 100

1959 Credit

| | 1960 | | SALARY | R.R. TAX | R.U.I.C. | EXPENSE | PER DIEM | MISC. | DEBIT |
|----|----------------|------------------------------|--------|----------|----------|---------|----------|-------|-------|
| 1 | <i>Jan 7</i> | <i>H. J. Endy # 598</i> | 22720 | 1358 | 852 | 8331 | 20 - | | 352 |
| 2 | <i>13</i> | <i>Joseph W. Boyle # 949</i> | | | | | | | |
| 3 | <i>22</i> | <i>H. J. Endy # 598</i> | 19880 | 1342 | 850 | 10103 | 30 - | | 351 |
| 4 | <i>Feb 8</i> | <i>H. J. Endy # 598</i> | 22720 | 1358 | 852 | 9903 | 30 - | | 372 |
| 5 | <i>10</i> | <i>John J. Coleman # 731</i> | | | | | | | |
| 6 | <i>24</i> | <i>H. J. Endy # 598</i> | 19880 | 1342 | 850 | 11256 | 25 - | | 351 |
| 7 | <i>Mar 4</i> | <i>H. J. Endy # 598</i> | 22720 | 1358 | 852 | 9084 | 25 - | | 361 |
| 8 | <i>15</i> | <i>J. Q. Parker # 949</i> | | | | | | | |
| 9 | <i>22</i> | <i>H. J. Endy # 598</i> | 19880 | 1342 | 850 | 9696 | 25 - | | 341 |
| 10 | <i>28</i> | <i>Clyde C. Newman # 959</i> | | | | | | | |
| 11 | <i>April 7</i> | <i>H. J. Endy # 598</i> | 22720 | 1358 | 852 | 11436 | 30 - | | 391 |
| 12 | <i>30</i> | <i>H. J. Endy # 598</i> | 201 - | 27 - | 15 - | | | | 441 |
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Zylenko + Elkind (Sheet # 2)

[fol. 1203]

1229

| 1960 | | SALARY | R.R. TAX | R.U.I.C. | EXPENSE | PER DIEM | 1959 Credit | MISC. | DEBIT | CREDIT |
|------|---------|-----------------------|----------|----------|---------|----------|-------------|-------|-------|--------|
| 1 | Jan 7 | N.J. Endy # 598 | 22720 | 1358 | 852 | 8331 | 20 - | | 35261 | |
| 2 | 13 | Joseph W. Boyle # 949 | | | | | | | | 300 - |
| 3 | 22 | L.J. Endy # 598 | 19880 | 1342 | 850 | 10103 | 30 - | | 35175 | |
| 4 | Feb 8 | N.J. Endy # 598 | 22720 | 1358 | 852 | 9903 | 30 - | | 37833 | |
| 5 | 10 | John J. Coleman # 731 | | | | | | | | 100 |
| 6 | 24 | N.J. Endy # 598 | 19880 | 1342 | 850 | 11256 | 25 - | | 35828 | |
| 7 | Mar 4 | N.J. Endy # 598 | 22720 | 1358 | 852 | 9084 | 25 - | | 36514 | |
| 8 | 15 | J.R. Parker # 949 | | | | | | | | 125 - |
| 9 | 22 | N.J. Endy # 598 | 19880 | 1342 | 850 | 9696 | 25 - | | 34268 | |
| 10 | 28 | Clyde C. Newman # 959 | | | | | | | | 200 - |
| 11 | April 7 | N.J. Endy # 598 | 22720 | 1358 | 852 | 11436 | 30 - | | 39366 | |
| 12 | 30 | N.J. Endy # 598 | 400 - | 27 - | 15 - | | | | 442 - | |
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FORM C 10 Q

1959

Debit

1 June 12 Fred Arnold # 400
 2 12 H. M. Shuffert # 855
 3 12 R. G. Hoover # 236
 4 18 H. M. Still # 134
 5 23 D. H. Klein # 170
 6 Sept 25 R. B. Crasby (Legal fees for August)
 7 Sept 30 Crasby, Penning & Shengul (for photostatic work)
 8 Oct 30 Crasby, Penning & Shengul (Print for photostatic work)
 9 Dec 9 Crasby, Penning & Shengul Legal fees for Oct. - Nov., 1959)

70
 81
 209
 71
 21
 839
 302

2190

1960

12 Jan. 18 Crasby, Penning & Shengul (Legal fees for Dec., 1959)
 13 Feb 12 Crasby, Penning & Shengul (Legal fees for Jan., 1960)
 14 Mar 21 Crasby, Penning & Shengul (Legal fees for Feb., 1960)
 15 May 27 Crasby, Penning & Shengul (Legal fees for April 1960)
 16 July 5 Crasby, Penning & Shengul (Legal fees for May 1960)
 17 Aug 10 Hon. H. Turner, Clerk of Supreme Court (Court Costs)
 18 Sept 15 Crasby, Penning & Shengul (Legal fees for Aug., 1960)

1091
 720
 1013
 511
 41
 1379
 36



MADE BY
 WESTER-CASEY CORP.
 (INCORPORATED IN U.S.A.)
 CHICAGO, ILL. U.S.A.

C 10 Q

1959

Debits Credits

| | | | |
|----|---|--------|----|
| 1 | June 12 Fred Arnold # 400 | 7208 | 1 |
| 2 | 12 H. M. Shuffert # 553 | 8112 | 2 |
| 3 | 12 R. G. Shover # 236 | 20994 | 3 |
| 4 | 18 H. M. Still # 134 | 7874 | 4 |
| 5 | 23 D. H. Klem # 170 | 2816 | 5 |
| 6 | Sept 25 R. B. Crasby (Legal Fee for August) | 83955 | 6 |
| 7 | Sept 30 Crasby, Penning & Shengul (for protective work) | 30204 | 7 |
| 8 | Oct 30 Crasby, Penning & Shengul (Fees for protective work) | | 8 |
| 9 | Dec 9 Crasby, Penning & Shengul Legal Fee for Oct. Nov., 1959 | 219562 | 9 |
| 10 | | | 10 |
| 11 | 1960 | | 11 |
| 12 | Jan 18 Crasby, Penning & Shengul (Legal Fee for Dec., 1959) | 109102 | 12 |
| 13 | Feb 12 Crasby, Penning & Shengul (Legal Fee for Jan., 1960) | 72660 | 13 |
| 14 | Mar 21 Crasby, Penning & Shengul (Legal Fee for Feb., 1960) | 101326 | 14 |
| 15 | May 27 Crasby, Penning & Shengul (Legal Fee for April 1960) | 51808 | 15 |
| 16 | July 2 Crasby, Penning & Shengul (Legal Fee for June 1960) | 25 - | 16 |
| 17 | Aug 10 H. N. Turner, Clerk of Supreme Court (Court Costs) | 137779 | 17 |
| 18 | Sept 15 Crasby, Penning & Shengul (Legal Fee for Aug., 1960) | 35 | 18 |
| 19 | | | 19 |
| 20 | | | 20 |
| 21 | | | 21 |
| 22 | | | 22 |
| 23 | | | 23 |
| 24 | | | 24 |
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| 35 | | | 35 |
| 36 | | | 36 |

72.68
81.12
209.94
78.74
28.16
839.55
362.04
2195.62

3867.85

30420

30420

30420

30420

Virginia

[fol. 1205]

1232

FORM C 10 Q

1900

June 17 C. C. M. 70100 # 550
17 J. H. Vaughan # 514
17 H. Y. Cole # 898

Debit Credit

7594

4248

5148



April 9, 1959

[fol. 1206]

Mr. W. P. Kennedy
President

Mr. W. J. Weil
General Secretary and Treasurer
Office

Dear Sirs and Brothers:

Kindly credit the attached check in the amount of
\$3,116.26 to the General Fund of the Brotherhood.

Fraternally yours,

C. R. Maher, Chief Clerk
Legal Aid Department

cc: Mr. M. J. Kilalager, Cashier (with check)
Miss William Ruby

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA
PLAINTIFF'S CHASE EXHIBIT "H"

1233

Rosemary.

This is half of H & H share
of salaries Jan - Feb - March.

April 20, 1939

[fol. 1307]

Mr. M. P. Kennedy
President

Mr. M. J. Hall
General Secretary and Treasurer
Office

Dear Sirs and Brothers:

Kindly credit the attached check in the amount of \$1,000.00 #13372
to the General Fund of the Brotherhood.

Fraternally yours,

C. R. Maher, Chief Clerk
Legal Aid Department

cc: Mr. M. J. Kilalager, Cashier (with check)
Miss Wilma Ruby

1235

Telefax **WESTERN UNION** *Telefax*
SENDING BLANK

CALL LETTERS CHS FR CHARGE TO Brotherhood of Railroad Trainmen

Cleveland, Ohio

April 17, 1939

Leo A. Pittman
530 Judge Building
Salt Lake City, Utah

THE COST TO THE BROTHERHOOD OF INVESTIGATING YOUR 2 ACCIDENTS
WAS ONE THOUSAND DOLLARS. YOUR CHECK TO COVER THIS WILL BE
APPRECIATED.

C. R. Maher
Chief Clerk
Brotherhood of Railroad Trainmen

[Col. 1207a]

1236

Send the above message, subject to the terms on back hereof, which are hereby agreed to

PLEASE TYPE OR WRITE PLAINLY WITHIN BORDER—DO NOT FOLD

1269—(R 4-35)

1207a

RAVENS, WALKER, ROBERTS & BLACK
CITY LAND OFF. UTAH

| DATE | DESCRIPTION | AMOUNT | REMARKS | BY |
|---------|-------------|----------|---------|----|
| 4/12/57 | | 1,000.00 | | |

[fol. 1207b]

1207b

[Vol. 1208]

Mr. W. P. Kennedy, President

Mr. W. J. Mail, General Secretary and Treasurer

Dear Sirs and Brothers:

Please credit the attached check in the amount of \$7500.00
to the General Fund of the Brotherhood.

Fraternally yours,

C. A. Maher, Chief Clerk
Legal Aid Department

cc: Mr. M. J. Kilalager, Cashier (with check)
Miss Wilma Ruby

1238

Wm. J. Mail

June 29, 1959.

[Vol. 1209]

Mr. W. P. Kennedy
President

Mr. W. J. Weil
General Secretary & Treasurer
Office

*Penalty + Penalties
(N.M. + M. check
#1985)*

Dear Sirs and Brothers:

Kindly credit the attached check in the amount of
\$4,000.00 to the General Fund of the Brotherhood.

Respectfully yours,

C. R. Maher, Chief Clerk
Legal Aid Department

cc: Mr. M. J. Fitzgerald, Cashier (with check)
Miss William Ruby

1239

EDWARD B. HENSLEE
FRANCIS H. MONEK
WALTER N. MURRAY

LAW OFFICES
HENSLEE, MONEK & MURRAY
130 NORTH CLARK STREET
CHICAGO 2, ILLINOIS
TELEPHONE STATE 2-5020

JUN 20 1959

JOHN J. NAUGHTON
ROBERT E. HARRINGTON
JAMES E. HARRINGTON
MARTIN K. HENSLEE
THOMAS E. RYAN

June 25, 1959

Mr. C. R. Maher, Chief Clerk
Brotherhood of Railroad Trainmen
Legal Counsel Department
Standard Building
Cleveland 13, Ohio

Dear Mr. Maher:

We are enclosing our check for \$4,000.00 which
I understand will cover all money due from the firm of Henslee,
Monek & Murray to the Brotherhood of Railroad Trainmen in
regard to investigation charges.

Very truly yours,

HENSLEE, MONEK & MURRAY

Walter N. Murray
Walter N. Murray

WNM:JC
Enc.

[fol. 1209a]

1240

1209a

Aug 7, 1959

June 30, 1959

Mr. W. P. Kennedy
President

Mr. W. J. Nail
General Secretary & Treasurer

Dear Sirs and Brothers:

Kindly credit the attached check in the amount of \$7,639.57 to the
General Fund of the Brotherhood.

Fraternally yours,

C. E. Maher, Chief Clerk
Legal Aid Department

cc: Mr. M. J. Kilalager, Cashier (with check)
Miss William Ruby,

Stamler & Knaul
Check # 821

Wagland & Knaul
Deposited
August 7, 1959

[Vol. 1210]

DUL -2 1959

EDWARD B. HENSLEE, JR.
MARTIN B. HENSLEE

LAW OFFICES
HENSLEE & HENSLEE
139 NORTH CLARK STREET
CHICAGO 2, ILLINOIS
TELEPHONE STATE 2-5925

June 30, 1959

Mr. C. R. Maher, Chief Clerk
Department of Legal Counsel
Brotherhood of Railroad Trainmen
Standard Building
Cleveland 13, Ohio

Dear Sir and Brother:

Enclosed is our check for \$7,639.57 which is the balance due and owing the Brotherhood, in accordance with your recent letter.

I believe that this settles our complete account with the Brotherhood.

Fraternally yours,


EDWARD B. HENSLEE, JR.

EBH:mjb

[fol. 1210a]

1212

1210a

July 14, 1939

Mr. W. P. Kennedy
President

Mr. H. J. Hill
General Secretary & Treasurer

For Mrs. and Brothers

Kindly credit the attached check in the amount of \$1,714.00
to the General Fund of the Brotherhood.

Respectfully yours,

G. E. Hines, Chief Clerk
Legal Aid Department

cc: Mr. H. J. Hilsinger, Cashier (with check)
Miss Helen Ruby

T.G. Lewis check
4587
Operating Expense

[Col. 1211]

1243

1211

July 16, 1939

Mr. W. P. Murphy
President

Mr. W. J. Hall
General Secretary & Treasurer

Dear Sirs and Brothers:

Kindly credit the attached check in the amount of \$1,000.00
to the General Fund of the Brotherhood.

Fraternally yours,

C. R. Maher, Chief Clerk
Legal Aid Department

cc: Mr. M. J. Kilgus, Cashier (with check)
Miss William Baby

*Check drawn on
First Trust & Savings Co.
Harrison, N.Y. on acct of
M. C. Chong, young, Mally & Son?
Payable to
"Donald" Chong
\$1,000.00*

*M. C. Chong closed
cont.*

*Investigation
E.P.*

[fol. 1212]

August 19, 1939

Savage

Mr. M. P. Shady
President

Mr. M. J. Hall
General Secretary & Treasurer

Dear Sirs and Brethren:

Shady credits the office had check in the amount of \$4,000.00
to the General Fund of the Brotherhood.

Respectfully yours,

C. E. Fisher, Chief Clerk
Legal Aid Department

Copy to:

Mr. M. J. Hildinger, Cashier (with check)
Miss William Ruby

[Vol. 1213]

1245

1213

M 44086

DATE

| PLEASE DETACH FOR YOUR RECORD | |
|---|----------|
| SALARY | |
| PER DIEM | |
| EXPENSE | |
| R.R. TAX | |
| WITHHOLDING | |
| a credit of B.M. Sav- age, Legal services, Wiseman, Hostetler and Decker to ME | |
| NET | 6,800.00 |

BROTHERHOOD OF RAILROAD TRAINMEN
MAIN ACCOUNT

12/30

LAW OFFICES
BERNARD M. SAVAGE
3100 MATHIESON BUILDING
BALTIMORE AND LIGHT STREETS
BALTIMORE 2, MD.

August 10, 1959

Brotherhood of Railroad Trainmen
1370 Ontario Street
Cleveland, 13, Ohio

Re: Wiseman v. B. & O. and B.R.T. - Civil Action No. 9678
Hostetler, et al v. B.R.T., et al - Civil Action No. 9795
Decker, et al v. B. & O. and B.R.T., et al - Civil Action No. 10136

Professional services from June, 1957, through June, 1958:

| | |
|-------------------------------------|---------------|
| 60 office days @ \$100.00 | \$6000.00 |
| 4 court days @ \$200.00 | <u>800.00</u> |

Total Fee \$6800.00

[fol. 1213b]

*Approved
WPK
8/13*

COPY

1247

12136

LAW OFFICES
BERNARD M. SAVAGE
3100 MATHIESON BUILDING
BALTIMORE AND LIGHT STREETS
BALTIMORE 8, MD.

SALARY ACCOUNT FOR THE YEAR OF 1959

Salaries from January 1, 1959 through June 30, 1959:

| | | |
|--------------|-----------------|------------|
| N. W. Tingle | \$2,353.90 | |
| R. T. Miller | <u>2,353.90</u> | \$4,707.80 |

Paid March 9, 1959

1,529.52

Balance due to June 30, 1959

\$3,178.28

Salaries for July and August, 1959:

| | | |
|--------------|---------------|----------|
| N. W. Tingle | \$ 884.00 | |
| R. T. Miller | <u>884.00</u> | 1,768.00 |

(Note: R. T. Miller is retiring
effective September 1, 1959)

Salaries from September 1, 1959 through December 31, 1959:

| | |
|------------------------------------|-----------------|
| N. W. Tingle - 4 months @ \$442.00 | <u>1,768.00</u> |
|------------------------------------|-----------------|

Total salaries due for the year of 1959

\$6,714.28

[fol. 1213c]

September 23, 1939

Mr. W. F. Kennedy
President

Mr. W. J. Hall
General Secretary & Treasurer

Dear Sirs and Brothers:

Kindly deposit the attached check in the amount of \$700.00 to
the General Fund of the Brotherhood.

Fraternally yours,

M.

G. R. Meyer, Chief Clerk
Legal Aid Department

GM:VO

cc: Mr. M. J. Klingner, Cashier (with check)
Miss William Ruby

Merchant National Bank
1651
R.E. Papp # 151
D.B. Clemence # 191
M. A. Brundage # 877
700.00 cash

Investigation
Jugue - Jugue
Contracts

[Vol. 1214]

YAEGER AND YAEGER

715 FORBAY TOWER
MINNEAPOLIS 2, MINNESOTA
PHONE FEDERAL 3-6371

SEP 25 1958

September 22, 1959

C.R. Maher, Chief Clerk
Legal Aid Dept.
Brotherhood of Railroad Trainmen
Standard bldg.
Cleveland 13 Ohio

Dear Sir and Brother: Re: Investigation Hills

I have received in the past your bill for the investigations that the brotherhood has sent me for

| | |
|--------------------------------|--------|
| Brother R.E. Ralph, Lodge 151, | \$300 |
| " D.B. Clemence " 191 | 300 |
| " M.L. Brandenburg, Lodge 877 | 300 |
| | \$ 900 |

I inclose my check payable to the brotherhood of Railroad Trainmen in this amount and I would like you to know that on these 3 cases the progress of the cases has been excellent, primarily because we are equipped with an adequate investigation.

It might be necessary, however, that if these cases have to be tried that a supplemental last minute investigation will be completed.

It might be necessary at that time to call upon local lodge officers or your regional investigator to assist in this work because of the technical nature of the happening of the accident.

Fraternally yours,

YAEGER & YAEGER

BY

Carl Yaeger Jr.

CLY, JR: vPU

[fol. 1214a]

1250

1214

October 5, 1939

Mr. M. P. Kennedy
President

Mr. W. J. Hall
General Secretary & Treasurer

Dear Sirs and Brothers:

Kindly deposit the attached check in the amount of \$2,100.00
to the General Fund of the Brotherhood.

Fraternally yours,

C. R. Maher, Chief Clerk
Legal Aid Department

cc: Mr. M. J. Kilgus, Cashier (With check)
Miss William Ruby

[fol. 1215]

1251

Zelenko & Elkind

December 21, 1959

Mr. W. P. Kennedy
President

Mr. W. J. Weil
General Secretary & Treasurer

Dear Sirs and Brothers:

Kindly deposit the attached check in the amount of \$9,300.00
to the credit of the General Fund of the Brotherhood.

Fraternally yours,

C. R. Maher, Chief Clerk
Department of Legal Counsel

cc: Mr. M. J. Ellslager, Cashier (with check)
Miss Wilhna Ruby

bcc: Zelenko & Elkind, Legal Counsel

[fol. 1216]

M 49457

DATE

PLEASE DETACH FOR YOUR RECORD

| | |
|--|--|
| SALARY | |
| PER DIEM | |
| EXPENSE | |
| R.R. TAX | |
| WITHHOLDING | |
| To Credit of Zelenko and Elkind, legal ser- vice Hudson Manhattan R. March-August, 1959 9,300.00 | |

BROTHERHOOD OF RAILROAD TRAINMEN
MAIN ACCOUNT

12/62

MEMORANDUM

December 17, 1959

[fol. 1216b]

**To: Mr. Floyd Lehman
Comptroller**

**From: W. P. Kennedy
President**

Enclosed are five statements totaling \$9,300.00.

**Kindly issue Brotherhood check in that amount and deliver
to C. R. Maher, Department of Legal Counsel.**



W. P. Kennedy, President

1254

**cc: C. R. Maher, Chief Clerk
Department of Legal Counsel**

ZELENSKO & ELKIND
COUNSELORS AT LAW
335 MADISON AVENUE
NEW YORK 17, N. Y.
MURRAY HILL 3-4420

ARNOLD B. ELKIND
HERBERT ZELENSKO

December 14, 1959

Re: Hudson & Manhattan Railroad

BROTHERHOOD OF RAILROAD TRAINMEN
Standard Building
Cleveland 13, Ohio

ATTENTION: President W. P. Kennedy

TO

Zelenko & Elkind, Dr.

To professional services rendered in April
of 1959, including conferences, research,
analysis, preparation of answer, cross-
petition, order to show cause and motion
papers, Court appearances on 5 separate
days, preparation of briefs, motion to re-
settle injunctive order, telephone
conferences, preparation of Notice of
Appeal. \$4,500.00

[fol. 1216c]

Approved
WPK
12/17/59

ARNOLD S. ELKIND
HERBERT ZELENSKO

ZELENKO & ELKIND
COUNSELORS AT LAW
285 MADISON AVENUE
NEW YORK 17, N. Y.
MURRAY HILL 3-4420

December 14, 1959

Re: Hudson & Manhattan Railroad

BROTHERHOOD OF RAILROAD TRAINMEN
Standard Building
Cleveland 13, Ohio

ATTENTION: President W.P. Kennedy

TO

Zelenko & Elkind, Dr.

To professional services rendered in June of
1959, including conferences, analysis of
answering memoranda, preparation of argument
to Court of Appeals, argument in Court of
Appeals. \$1,000.00

[fol. 1216d]

Approved
WPK
12/17/59

1256

1216d

ZELENGO & ELKIND
COUNSELORS AT LAW
285 MADISON AVENUE
NEW YORK 17, N. Y.
MURRAY HILL 3-6420

ARNOLD B. ELKIND
HERBERT ZELENGO

December 14, 1959

Re: Hudson & Manhattan Railroad

BROTHERHOOD OF RAILROAD TRAINMEN
Standard Building
Cleveland 13, Ohio

ATTENTION: President W.P. Kennedy

TO

Zelenko & Elkind, Dr.

To professional services rendered in May of
1959, including preparation of Record on
Appeal, analysis, conferences and tele-
phone conferences with attorneys represent-
ing the R.E.L.A., research, motion in the
United States Court of Appeals for a
preference, argument of motion for a
preference. \$3,000.00

[fol. 1216c]

Approved
WPK
12/17/59

ZELENKO & ELKIND
COUNSELORS AT LAW
285 MADISON AVENUE
NEW YORK 17, N. Y.

ARNOLD B. ELKIND
HERBERT ZELENKO

MURRAY HILL 3 4470

December 14, 1959

Re: Hudson & Manhattan Railroad

BROTHERHOOD OF RAILROAD TRAINMEN
Standard Building
Cleveland 13, Ohio

ATTENTION: President W.P. Kennedy

TO

Zelenko & Elkind, Dr.

To professional services rendered in August
of 1950, including application to Supreme
Court of the United States for extension
of time within which to file petition
for a writ of certiorari, conferences,
correspondence, etc. \$500.00

[fol. 1216]

1258

12164

Handwritten:
12/17/59
WPK

ZELENKO & ELKIND
COUNSELORS AT LAW
255 MADISON AVENUE
NEW YORK 17, N. Y.
MURRAY HILL 3-4420

ARNOLD S. ELKIND
HERBERT ZELENKO

December 14, 1959

Re: Hudson & Manhattan Railroad

BROTHERHOOD OF RAILROAD TRAINMEN
Standard Building
Cleveland 13, Ohio

ATTENTION: President W.P. Kennedy

TO

Zelenko & Elkind, Dr.

To professional services rendered in March
of 1959, including conferences, analysis
and research. \$300.00

[fol. 1216g]

Approved
WPK
12/17/59

1216g

1259

December 30, 1959

Mr. W. P. Kennedy
President

Mr. W. J. Wall
General Secretary & Treasurer

Dear Sirs and Brothers:

Kindly deposit the attached check in the amount of \$5,414.34
to the Credit of the General Fund of the Brotherhood.

Fraternally yours,

C. R. Maher, Chief Clerk
Department of Legal Counsel

cc: Mr. H. J. Klalager, Cashier (with check)
Miss William Ruby

J. Murray Dunn
Check # 1963
JW Epp

Dunn
Contracts

[fol. 1217]

1217

1260

DEC 30 1959

LAW OFFICES
McELROY, YOUNG, MAHLEY, MARTIN & DUNNFRANCIS L. McELROY (1898-1958)
J. MURRAY DUNN
W. SHANE YOUNG
GORDON M. MAHLEY
WILLIAM S. MARTIN
JOHN S. GONERAN707 STATE TOWER BUILDING
SYRACUSE 2, NEW YORK
TELEPHONE MA 1-8383**PERSONAL & CONFIDENTIAL**

December 22, 1959

Mr. C. R. Maher, Chief Clerk
Legal Aid Department
Brotherhood of Railroad Trainmen
Standard Building
Cleveland 13, Ohio

Dear Brother Maher:

I enclose a check in the amount of \$5,414.34, constituting payment on behalf of the following members for investigations made of their claims by the Brotherhood of Railroad Trainmen. All of these cases have been settled.

| <u>NAME</u> | <u>LODGE</u> | <u>AMOUNT</u> |
|-------------|--------------|---------------|
| ✓ Beisel | 346 | \$ 250.00 |
| ✓ Jarnahay | 87 | 100.00 |
| ✓ Pakasky | 579 | 450.00 |
| ✓ Tomke | 968 | 200.00 |
| ✓ Trewin | 946 | 600.00 |
| ✓ Scheeler | 491 | 350.00 |
| ✓ Highfield | 244 | 100.00 |
| ✓ Pancavage | 1079 | 500.00 |
| ✓ Maloney | 496 | 425.00 |
| ✓ Lawrence | 143 | 175.00 |
| ✓ Roshnow | 556 | 150.00 |
| ✓ Storms | 244 | 150.00 |
| ✓ Richards | 1002 | 450.00 |
| ✓ Scheick | 647 | 500.00 |
| ✓ Kracunak | 1079 | 250.00 |
| ✓ House | 551 | 475.00 |
| ✓ Wandelaar | 1002 | 289.34 |

\$ 5,414.34

Fraternally yours,

*J. McElroy Dunn*JMD:bh
enc.*Superseded &
Reinstated
4/30/59
J.C.*

[fol. 1217a]

1217a

1261

April 5, 1940

*forger - forger
- aiaomis*

Mr. M. P. Kennedy
President

Mr. M. E. D. Chase
General Secretary & Treasurer

Dear Sirs and Brothers:

Please deposit the attached check in the amount of \$1,000.00
to the General Fund of the Brotherhood.

Respectfully yours,

C. A. Baker, Chief Clerk
Department of Legal Council

CHM:VO

cc: Mr. M. J. Hilslager, Cashier (with check)
Miss William Ruby

[fol. 1218]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA
PLAINTIFF'S CHASE EXHIBIT "J"

April 7, 1929

*Recd
Sw. Exp
for all 5*

Mr. W. F. Ramsey
President

Mr. W. E. R. Chase
General Secretary & Treasurer

Dear Sirs and Brothers:

Kindly deposit the attached checks to the credit of the General
Fund of the Brotherhood.

\$2,100.00 - B. Chubbey #204
1,000.00 - G. Tullis #737
1,000.00 - C. Collins #41
750.00 - C. H. Runtow #833
1,000.00 - Mrs. Benson #450
\$5,850.00

Respectfully yours,

G. E. Miller, Chief Clerk
Department of Legal Council

GEM:VC

cc: Mr. E. J. Kilgus, Collector (with 5 checks)
Miss Helen Ruby

[fol. 1219]

March 31, 1960

*File Fund
check 4513*

for 58 years

Mr. W. P. Hambley
President

Mr. W. J. Hall
General Secretary & Treasurer

Dear Sirs and Brothers:

Kindly deposit the attached check in the amount of \$10,540.00
to the credit of the General Fund of the Brotherhood.

Fraternally yours,

G. R. Maher, Chief Clerk
Department of Legal Counsel

GMR:VO

cc: Mr. H. J. Hilslager, Cashier (with check)
Miss William Raby

[fol. 1220]

1220

DEPARTMENTAL PAY ROLL RECORD

PLAINTIFF'S CHASE EXHIBIT "J"

Source Investigator

Level: 41d

2. S. A/C No.

1221

Calkins, R. J.

POSITION Investigator

DEPT. Local Aid

S. S. A/C No.

| LINE NO. | DATE PAID | NO. INVOICE | PERIOD | | FUND OR SECTION | AMOUNTS | | DATE PAID | YO. NO. | PERIOD | | FUND OR SECTION | AMOUNTS | |
|----------|-----------|-------------|--------|----|-----------------|---------|---------|-----------|---------|--------|----|-----------------|---------|---------|
| | | | FROM | TO | | DEBTS | CREDITS | | | FROM | TO | | DEBTS | CREDITS |
| 1 | JAN 15 54 | 3874 | JAN 1 | 15 | | 20000 | | 1955 | 4 | | | | | |
| 2 | JAN 15 54 | 3874 | JAN 15 | 31 | | 20000 | | JAN 15 | 4701 | JAN 1 | 15 | | 20000 | |
| 3 | FEB 15 54 | 3932 | FEB 1 | 15 | | 10000 | | JAN 31 | 4701 | JAN 15 | 31 | | 20000 | |
| 4 | FEB 15 54 | 3932 | FEB 15 | 28 | | 20000 | | FEB 15 | 4701 | FEB 1 | 15 | | 20000 | |
| 5 | MAR 15 54 | 4003 | MAR 1 | 15 | | 20000 | | FEB 28 | 4815 | FEB 1 | 28 | | 20000 | |
| 6 | MAR 15 54 | 4003 | MAR 15 | 31 | | 20000 | | MAR 15 | 4815 | MAR 1 | 15 | | 20000 | |
| 7 | APR 15 54 | 4082 | APR 1 | 15 | | 20000 | | APR 31 | 4873 | APR 15 | 31 | | 20000 | |
| 8 | APR 15 54 | 4082 | APR 15 | 30 | | 20000 | | APR 15 | 4914 | APR 1 | 15 | | 20000 | |
| 9 | MAY 15 54 | 4158 | MAY 1 | 15 | | 20000 | | APR 30 | 4946 | APR 15 | 30 | | 20000 | |
| 10 | MAY 15 54 | 4158 | MAY 15 | 31 | | 20000 | | MAY 15 | 4983 | MAY 1 | 15 | | 20000 | |
| 11 | JUN 15 54 | 4218 | JUN 1 | 15 | | 20000 | | MAY 31 | 5014 | MAY 15 | 30 | | 20000 | |
| 12 | JUN 15 54 | 4218 | JUN 15 | 30 | | 20000 | | JUN 15 | 5052 | JUN 1 | 15 | | 20000 | |
| 13 | JUL 15 54 | 4294 | JUL 1 | 15 | | 20000 | | JUN 30 | 5080 | JUN 15 | 30 | | 20000 | |
| 14 | JUL 15 54 | 4294 | JUL 15 | 31 | | 20000 | | JUL 15 | 5180 | JUL 1 | 15 | | 20000 | |
| 15 | AUG 15 54 | 4354 | AUG 1 | 15 | | 20000 | | JUL 31 | 5134 | JUL 15 | 31 | | 20000 | |
| 16 | AUG 15 54 | 4354 | AUG 15 | 31 | | 20000 | | AUG 15 | 5162 | AUG 1 | 15 | | 20000 | |
| 17 | SEP 15 54 | 4444 | SEP 1 | 15 | | 20000 | | AUG 31 | 5192 | AUG 15 | 31 | | 20000 | |
| 18 | SEP 15 54 | 4444 | SEP 15 | 30 | | 20000 | | SEP 15 | 5217 | SEP 1 | 15 | | 20000 | |
| 19 | OCT 15 54 | 4524 | OCT 1 | 15 | | 20000 | | SEP 30 | 5241 | SEP 15 | 30 | | 20000 | |
| 20 | OCT 15 54 | 4524 | OCT 15 | 29 | | 20000 | | OCT 15 | 5274 | OCT 1 | 15 | | 20000 | |
| 21 | NOV 15 54 | 4580 | NOV 1 | 15 | | 20000 | | OCT 30 | 5303 | OCT 15 | 31 | | 20000 | |
| 22 | NOV 15 54 | 4580 | NOV 15 | 30 | | 20000 | | NOV 15 | 5337 | NOV 1 | 15 | | 20000 | |
| 23 | DEC 15 54 | 4638 | DEC 1 | 15 | | 20000 | | NOV 30 | 5364 | NOV 15 | 30 | | 20000 | |
| 24 | DEC 15 54 | 4638 | DEC 15 | 31 | | 20000 | | DEC 15 | 5398 | DEC 1 | 15 | | 20000 | |
| 25 | | | | | | | | DEC 30 | 5423 | DEC 15 | 31 | | 20000 | |

BROWNSHOOD OF RAILROAD WORKMEN

NAME Calkins, R. J.

POSITION Investigator

NOV Local Aid

S.S.A/CN

| 1958 | | | | AMOUNTS | | 1957 | | | | AMOUNTS | |
|--------------|-------------|------------|--------------------|---------|--------|--------------|-------------|------------|--------------------|---------|--------|
| DATE PAID | VOL. NO. | FROM TO | FUND OR SECTION | DEBIT | CREDIT | DATE PAID | VOL. NO. | FROM TO | FUND OR SECTION | DEBIT | CREDIT |
| JUN 15 | 3456 | JUN 1 | 15 | 200.00 | | JUN 15 | 6316 | JUN 1 | 15 | 250.00 | |
| JUN 31 | 3487 | JUN 16 | 31 | 200.00 | | JUN 31 | 636 | JUN 15 | 31 | 250.00 | |
| FEB 15 | | FEB 1 | 15 | 200.00 | | FEB 15 | 6400 | FEB 1 | 15 | 250.00 | |
| FEB 29 | 518 | | 29 | 200.00 | | | | | | 250.00 | |
| MAY 1 | 50 | MAY 1 | 15 | 200.00 | | JUN 15 | 6470 | JUN 1 | 15 | 250.00 | |
| | | | | 200.00 | | JUN 31 | 6525 | JUN 15 | 31 | 250.00 | |
| | | | | 200.00 | | | | | | 250.00 | |
| | | | | 200.00 | | | | | | 250.00 | |
| JUN 15 | 5732 | JUN 1 | 15 | 200.00 | | JUN 29 | 6690 | JUN 16 | 31 | 250.00 | |
| JUN 31 | 5766 | JUN 16 | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 5812 | JUN 1 | 15 | 200.00 | | | | | | 250.00 | |
| JUN 30 | 5850 | JUN 16 | 30 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 5874 | JUN 1 | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 5915 | JUN 15 | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 5940 | JUN 1 | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 5960 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 5971 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 5995 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 5990 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6015 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6030 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6045 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6060 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6075 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6090 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6105 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6120 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6135 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6150 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6165 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6180 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6195 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6210 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6225 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6240 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6255 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6270 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6285 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6300 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6315 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6330 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6345 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6360 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6375 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6390 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6405 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6420 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6435 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6450 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6465 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6480 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6495 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6510 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6525 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6540 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6555 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6570 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6585 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6600 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6615 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6630 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6645 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6660 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6675 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6690 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6705 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6720 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6735 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6750 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6765 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6780 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6795 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6810 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6825 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6840 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6855 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6870 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6885 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6900 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6915 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6930 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6945 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6960 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 6975 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 6990 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 7005 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 7020 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 7035 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 7050 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 7065 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 7080 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 7095 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 7110 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 7125 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 7140 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 7155 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 7170 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 7185 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 7200 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 7215 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 7230 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 7245 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 7260 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 7275 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 7290 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 7305 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 7320 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 7335 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 7350 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 7365 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 7380 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 7395 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 7410 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 7425 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 7440 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 7455 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 7470 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 7485 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 7500 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 7515 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 7530 | | 15 | 200.00 | | | | | | 250.00 | |
| JUN 31 | 7545 | | 31 | 200.00 | | | | | | 250.00 | |
| JUN 15 | 7560 | | REC | | | | | | | | |

DEPARTMENTAL PAY ROLL RECORD

Cincinnati, O. I.

FORMER Investigator

DEPT Legal Aid

S. S. A/CN.

| DATE | NO. | PERIOD | FROM | TO | SECTION | AMOUNTS | | DATE PAID | VOL. NO. | PERIOD | FROM | TO | SECTION | AMOUNTS | | PAGE |
|------------|------|--------|------|----|---------|---------|--------|-----------|----------|--------|------|----|---------|---------|--------|------|
| | | | | | | DEBIT | CREDIT | | | | | | | DEBIT | CREDIT | |
| JAN 15 '54 | 3874 | JAN 1 | | 15 | | 2400.00 | | JAN 15 | 1955 | | | | | | | 1 |
| JAN 15 '54 | 3874 | JAN 15 | | 31 | | 2400.00 | | JAN 15 | 4701 | JAN 1 | | 15 | | 2400.00 | | 2 |
| FEB 1 '54 | 3932 | FEB 1 | | 15 | | 2400.00 | | JAN 31 | 4701 | JAN 15 | | 31 | | 2000.00 | | 3 |
| FEB 1 '54 | 3932 | FEB 15 | | 29 | | 2400.00 | | FEB 15 | 4789 | FEB 1 | | 15 | | 2000.00 | | 4 |
| MAR 1 '54 | 4100 | MAR 1 | | 15 | | 2400.00 | | FEB 28 | 4815 | FEB 15 | | 29 | | 2400.00 | | 5 |
| MAR 1 '54 | 4100 | MAR 15 | | 31 | | 2400.00 | | MAR 15 | 4824 | MAR 1 | | 15 | | 2400.00 | | 6 |
| APR 1 '54 | 4100 | APR 1 | | 15 | | 2400.00 | | MAR 31 | 4877 | MAR 15 | | 31 | | 2400.00 | | 7 |
| APR 1 '54 | 4100 | APR 15 | | 30 | | 2400.00 | | APR 15 | 4914 | APR 1 | | 15 | | 2000.00 | | 8 |
| MAY 1 '54 | 4100 | MAY 1 | | 31 | | 2400.00 | | APR 30 | 4948 | APR 15 | | 30 | | 2000.00 | | 9 |
| JUN 1 '54 | 4151 | JUN 1 | | 31 | | 2000.00 | | MAY 15 | 4983 | MAY 1 | | 15 | | 2000.00 | | 10 |
| JUN 1 '54 | 4151 | JUN 15 | | 19 | | 2000.00 | | MAY 31 | 5019 | MAY 15 | | 30 | | 2000.00 | | 11 |
| JUL 1 '54 | 4211 | JUL 1 | | 31 | | 2400.00 | | JUN 15 | 5052 | JUN 1 | | 15 | | 2000.00 | | 12 |
| JUL 1 '54 | 4211 | JUL 15 | | 19 | | 2400.00 | | JUN 30 | 5080 | JUN 15 | | 30 | | 2000.00 | | 13 |
| AUG 1 '54 | 4294 | AUG 1 | | 31 | | 2400.00 | | JUL 15 | 5180 | JUL 1 | | 15 | | 2000.00 | | 14 |
| AUG 1 '54 | 4294 | AUG 15 | | 15 | | 2400.00 | | JUL 31 | 5134 | JUL 15 | | 31 | | 2000.00 | | 15 |
| SEP 1 '54 | 4358 | SEP 1 | | 15 | | 2400.00 | | AUG 15 | 5162 | AUG 1 | | 15 | | 2000.00 | | 16 |
| SEP 1 '54 | 4401 | SEP 1 | | 15 | | 2400.00 | | AUG 31 | 5192 | AUG 15 | | 31 | | 2000.00 | | 17 |
| OCT 1 '54 | 4401 | OCT 1 | | 30 | | 2400.00 | | SEP 15 | 5217 | SEP 1 | | 15 | | 2000.00 | | 18 |
| OCT 1 '54 | 4524 | OCT 1 | | 15 | | 2400.00 | | SEP 30 | 5241 | SEP 15 | | 30 | | 2000.00 | | 19 |
| OCT 1 '54 | 4524 | OCT 15 | | 29 | | 2400.00 | | OCT 15 | 5274 | OCT 1 | | 15 | | 2000.00 | | 20 |
| NOV 1 '54 | 4590 | NOV 1 | | 15 | | 2400.00 | | OCT 30 | 5303 | OCT 15 | | 31 | | 2000.00 | | 21 |
| NOV 1 '54 | 4590 | NOV 15 | | 30 | | 2400.00 | | NOV 15 | 5337 | NOV 1 | | 15 | | 2000.00 | | 22 |
| DEC 1 '54 | 4639 | DEC 1 | | 15 | | 2400.00 | | NOV 30 | 5364 | NOV 15 | | 30 | | 2000.00 | | 23 |
| DEC 1 '54 | 4639 | DEC 15 | | 31 | | 2400.00 | | DEC 15 | 5396 | DEC 1 | | 15 | | 2000.00 | | 24 |
| | | | | | | | | DEC 30 | 5420 | DEC 15 | | 31 | | 2400.00 | | 25 |
| | | | | | | | | | | | | | | 4600.00 | | 26 |

BROTHERHOOD OF RAILROAD TRANSMISSION

~~NAME~~ Clintonboard, G. A.

Investigator

corr. Local #14

LEACH

| 1958 | | | | 1957 | | | | 1956 | | | |
|--------|------|--------|--------|--------|------|--------|--------|--------|------|--------|--------|
| DATE | NO. | PERIOD | AMOUNT | DATE | NO. | PERIOD | AMOUNT | DATE | NO. | PERIOD | AMOUNT |
| JAN 13 | 5461 | 1-15 | 20000 | JAN 13 | 5461 | 1-15 | 20000 | JAN 13 | 5461 | 1-15 | 20000 |
| FEB 15 | 5462 | 1-15 | 20000 | FEB 15 | 5462 | 1-15 | 20000 | FEB 15 | 5462 | 1-15 | 20000 |
| FEB 20 | 5463 | 1-15 | 20000 | FEB 20 | 5463 | 1-15 | 20000 | FEB 20 | 5463 | 1-15 | 20000 |
| MAR 15 | 5464 | 1-15 | 20000 | MAR 15 | 5464 | 1-15 | 20000 | MAR 15 | 5464 | 1-15 | 20000 |
| MAR 30 | 5465 | 1-15 | 20000 | MAR 30 | 5465 | 1-15 | 20000 | MAR 30 | 5465 | 1-15 | 20000 |
| APR 15 | 5466 | 1-15 | 20000 | APR 15 | 5466 | 1-15 | 20000 | APR 15 | 5466 | 1-15 | 20000 |
| APR 30 | 5467 | 1-15 | 20000 | APR 30 | 5467 | 1-15 | 20000 | APR 30 | 5467 | 1-15 | 20000 |
| MAY 15 | 5468 | 1-15 | 20000 | MAY 15 | 5468 | 1-15 | 20000 | MAY 15 | 5468 | 1-15 | 20000 |
| MAY 31 | 5469 | 1-15 | 20000 | MAY 31 | 5469 | 1-15 | 20000 | MAY 31 | 5469 | 1-15 | 20000 |
| JUN 15 | 5470 | 1-15 | 20000 | JUN 15 | 5470 | 1-15 | 20000 | JUN 15 | 5470 | 1-15 | 20000 |
| JUN 30 | 5471 | 1-15 | 20000 | JUN 30 | 5471 | 1-15 | 20000 | JUN 30 | 5471 | 1-15 | 20000 |
| JUL 15 | 5472 | 1-15 | 20000 | JUL 15 | 5472 | 1-15 | 20000 | JUL 15 | 5472 | 1-15 | 20000 |
| JUL 31 | 5473 | 1-15 | 20000 | JUL 31 | 5473 | 1-15 | 20000 | JUL 31 | 5473 | 1-15 | 20000 |
| AUG 15 | 5474 | 1-15 | 20000 | AUG 15 | 5474 | 1-15 | 20000 | AUG 15 | 5474 | 1-15 | 20000 |
| AUG 31 | 5475 | 1-15 | 20000 | AUG 31 | 5475 | 1-15 | 20000 | AUG 31 | 5475 | 1-15 | 20000 |
| SEP 15 | 5476 | 1-15 | 20000 | SEP 15 | 5476 | 1-15 | 20000 | SEP 15 | 5476 | 1-15 | 20000 |
| SEP 30 | 5477 | 1-15 | 20000 | SEP 30 | 5477 | 1-15 | 20000 | SEP 30 | 5477 | 1-15 | 20000 |
| OCT 15 | 5478 | 1-15 | 20000 | OCT 15 | 5478 | 1-15 | 20000 | OCT 15 | 5478 | 1-15 | 20000 |
| OCT 31 | 5479 | 1-15 | 20000 | OCT 31 | 5479 | 1-15 | 20000 | OCT 31 | 5479 | 1-15 | 20000 |
| NOV 15 | 5480 | 1-15 | 20000 | NOV 15 | 5480 | 1-15 | 20000 | NOV 15 | 5480 | 1-15 | 20000 |
| NOV 30 | 5481 | 1-15 | 20000 | NOV 30 | 5481 | 1-15 | 20000 | NOV 30 | 5481 | 1-15 | 20000 |
| DEC 15 | 5482 | 1-15 | 20000 | DEC 15 | 5482 | 1-15 | 20000 | DEC 15 | 5482 | 1-15 | 20000 |
| DEC 31 | 5483 | 1-15 | 20000 | DEC 31 | 5483 | 1-15 | 20000 | DEC 31 | 5483 | 1-15 | 20000 |

FEDERAL BUREAU OF INVESTIGATION

Special Investigator

New Legal Aid

L. A. C. H.

| | | | | AMOUNTS | | DATE | | PERIOD | | PERIOD ON SECTION | | AMOUNTS | |
|------|--------|----|------|---------|--------|--------|------|--------|----|-------------------|-----|---------|--------|
| NO. | NAME | TO | FROM | DEBIT | CREDIT | DATE | NO. | DATE | TO | SECTION | NO. | DEBIT | CREDIT |
| 1959 | | | | | | | | | | | | | |
| 7892 | JAN 1 | 15 | | 200.00 | | JAN 15 | 8329 | JAN 1 | 15 | | | 200.00 | |
| 7387 | JAN 1 | 31 | | 200.00 | | JAN 31 | 8325 | JAN 16 | 31 | | | 200.00 | |
| 7372 | FEB 1 | 15 | | 200.00 | | FEB 15 | 8315 | FEB 1 | 15 | | | 200.00 | |
| 7312 | MAR 13 | 28 | | 200.00 | | FEB 27 | 8417 | FEB 16 | 28 | | | 200.00 | |
| 8097 | MAR 1 | 15 | | 200.00 | | MAR 15 | 8477 | MAR 1 | 15 | | | 200.00 | |
| 7510 | MAR 16 | 31 | | 200.00 | | MAR 31 | 8520 | MAR 16 | 31 | | | 200.00 | |
| 7550 | MAR 1 | 15 | | 200.00 | | APR 15 | 8502 | MAR 1 | 15 | | | 200.00 | |
| 7500 | MAR 16 | 30 | | 200.00 | | APR 30 | 8602 | APR 15 | 30 | | | 150.00 | |
| 7540 | MAR 1 | 15 | | 200.00 | | MAY 15 | 8606 | MAY 1 | 15 | | | 175.00 | |
| 7600 | MAR 16 | 31 | | 200.00 | | MAY 29 | 8602 | MAY 16 | 31 | | | 175.00 | |
| 7730 | APR 1 | 15 | | 200.00 | | JUN 15 | 8726 | JUN 1 | 15 | | | 200.00 | |
| 7760 | APR 1 | 30 | | 200.00 | | JUN 30 | 8762 | JUN 16 | 30 | | | 200.00 | |
| 7829 | MAY 1 | 15 | | 200.00 | | JUL 15 | 8800 | JUL 1 | 15 | | | 200.00 | |
| 7860 | MAY 1 | 31 | | 200.00 | | JUL 31 | 8801 | JUL 16 | 31 | | | 200.00 | |
| 7900 | MAY 1 | 15 | | 200.00 | | AUG 14 | 8807 | AUG 1 | 14 | | | 200.00 | |
| 7940 | MAY 15 | 31 | | 200.00 | | AUG 31 | 8904 | AUG 15 | 31 | | | 200.00 | |
| 7980 | MAY 1 | 15 | | 200.00 | | SEP 15 | 8902 | SEP 1 | 15 | | | 200.00 | |
| 8050 | MAY 16 | 30 | | 200.00 | | SEP 30 | 8909 | SEP 16 | 30 | | | 200.00 | |
| 8060 | MAY 1 | 15 | | 200.00 | | OCT 15 | 9056 | OCT 1 | 15 | | | 200.00 | |
| 8100 | MAY 16 | 31 | | 200.00 | | OCT 30 | 9000 | OCT 16 | 30 | | | 200.00 | |
| 8120 | MAY 1 | 15 | | 200.00 | | NOV 15 | 9116 | NOV 1 | 15 | | | 370.00 | |
| 8180 | MAY 16 | 30 | | 200.00 | | NOV 30 | 9111 | NOV 16 | 30 | | | 200.00 | |
| 8210 | MAY 1 | 15 | | 200.00 | | DEC 15 | 9202 | DEC 1 | 15 | | | 200.00 | |
| 8216 | MAY 16 | 31 | | 200.00 | | DEC 31 | 9204 | DEC 16 | 31 | | | 200.00 | |
| | | | | 4800.00 | | | | | | | | | |
| | | | | | | | | | | | | 4700.00 | |

BROTHERHOOD OF RAILROAD TRAINMEN

NAME Clickenboard, G. A.POSITION InspectorDEPT. Legal Aid

S. S. A/CN

NAME

| DATE PAID | VOL. NO. | PERIOD | | TIME ON SESSION | AMOUNTS | | DATE PAID | VOL. NO. | PERIOD | | TIME ON SESSION | AMOUNTS | |
|--------------|-------------|--------|----|--------------------|---------|--------|--------------|-------------|--------|----|--------------------|---------|--------|
| | | FROM | TO | | DEBIT | CREDIT | | | FROM | TO | | DEBIT | CREDIT |
| 1940 | | | | | | | | | | | | | |
| 12-15 | 8723 | 12-15 | 15 | | 20000 | | | | | | | | |
| 12-15 | 8723 | 12-15 | 29 | | 10000 | | | | | | | | |
| 12-15 | 9460 | 12-15 | 15 | | 10000 | | | | | | | | |
| 12-20 | 9533 | 12-20 | 29 | | 10000 | | | | | | | | |
| 12-15 | 9585 | 12-15 | 15 | | 10000 | | | | | | | | |
| 12-31 | 9621 | 12-31 | 31 | | 20000 | | | | | | | | |
| 12-15 | 968 | 12-15 | 15 | | 10000 | | | | | | | | |
| 12-20 | 9728 | 12-20 | 29 | | 10000 | | | | | | | | |

DEPARTMENTAL PAY ROLL RECORD

POSITION

On 21st June

DEPT

Pa

S. S. A/C No.

[illegible]

NAME *R. W. Grege*

POSITION

Investigator

DEPT

La

L L A/C No.

| DATE PAID | VL. NO. | PERIOD | | FUND OR SECTION | AMOUNTS | | DATE PAID | VL. NO. | PERIOD | | FUND OR SECTION | AMOUNTS | | |
|-----------|---------|--------|----|-----------------|---------|---------|-----------|---------|--------|----|-----------------|---------|---------|----|
| | | FROM | TO | | DEBITS | CREDITS | | | FROM | TO | | DEBITS | CREDITS | |
| 1956 | | | | | | | 1957 | | | | | | | |
| JAN 15 | 5456 | JAN 1 | 15 | | 125.00 | | JAN 15 | 6316 | JAN 1 | 15 | | 125.00 | | 1 |
| JAN 31 | 5487 | JAN 16 | 31 | | 126.00 | | JAN 31 | 6362 | JAN 15 | 31 | | 125.00 | | 2 |
| FEB 15 | 5517 | FEB 1 | 15 | | 175.00 | | FEB 15 | 6400 | FEB 1 | 15 | | 126.00 | | 3 |
| FEB 29 | | FEB 16 | 29 | | 175.00 | | FEB 29 | 6437 | FEB 15 | 29 | | 125.00 | | 4 |
| MAR 15 | 5587 | MAR 1 | 15 | | 125.00 | | MAR 15 | 6478 | MAR 1 | 15 | | 125.00 | | 5 |
| MAR 31 | | MAR 16 | 31 | | 125.00 | | MAR 31 | 6525 | MAR 15 | 31 | | 125.00 | | 6 |
| APR 15 | | APR 1 | 15 | | 125.00 | | APR 15 | 6572 | APR 1 | 15 | | 125.00 | | 7 |
| APR 30 | 5635 | APR 16 | 30 | | 125.00 | | APR 30 | 6619 | APR 15 | 30 | | 125.00 | | 8 |
| MAY 15 | 5737 | MAY 1 | 15 | | 125.00 | | MAY 15 | 6666 | MAY 1 | 15 | | 125.00 | | 9 |
| MAY 31 | 5766 | MAY 16 | 31 | | 125.00 | | MAY 31 | 6725 | MAY 15 | 31 | | 125.00 | | 10 |
| JUN 15 | 5812 | JUN 1 | 15 | | 125.00 | | JUN 15 | 6772 | JUN 1 | 15 | | 125.00 | | 11 |
| JUN 30 | 5838 | JUN 16 | 30 | | 125.00 | | JUN 30 | 6819 | JUN 15 | 30 | | 125.00 | | 12 |
| JUL 15 | 5874 | JUL 1 | 15 | | 125.00 | | JUL 15 | 6866 | JUL 1 | 15 | | 125.00 | | 13 |
| JUL 31 | 5915 | JUL 16 | 31 | | 125.00 | | JUL 31 | 6913 | JUL 15 | 31 | | 125.00 | | 14 |
| AUG 15 | 5946 | AUG 1 | 15 | | 125.00 | | AUG 15 | 6960 | AUG 1 | 15 | | 125.00 | | 15 |
| AUG 31 | 5987 | AUG 16 | 31 | | 125.00 | | AUG 31 | 7007 | AUG 15 | 31 | | 125.00 | | 16 |
| SEP 15 | 6018 | SEP 1 | 15 | | 125.00 | | SEP 15 | 7054 | SEP 1 | 15 | | 125.00 | | 17 |
| SEP 30 | 6049 | SEP 16 | 30 | | 125.00 | | SEP 30 | 7101 | SEP 15 | 30 | | 125.00 | | 18 |
| OCT 15 | 6080 | OCT 1 | 15 | | 125.00 | | OCT 15 | 7148 | OCT 1 | 15 | | 125.00 | | 19 |
| OCT 31 | 6121 | OCT 16 | 31 | | 125.00 | | OCT 31 | 7195 | OCT 15 | 31 | | 125.00 | | 20 |
| NOV 15 | 6172 | NOV 1 | 15 | | 125.00 | | NOV 15 | 7242 | NOV 1 | 15 | | 125.00 | | 21 |
| NOV 30 | 6213 | NOV 16 | 30 | | 125.00 | | NOV 30 | 7289 | NOV 15 | 30 | | 125.00 | | 22 |
| DEC 7 | 56240 | DEC 1 | 15 | | 125.00 | | DEC 7 | 7336 | DEC 1 | 15 | | 125.00 | | 23 |
| DEC 31 | 59274 | DEC 16 | 31 | | 125.00 | | DEC 31 | 7383 | DEC 15 | 31 | | 125.00 | | 24 |
| | | | | | 300.00 | | | | | | | 300.00 | | |

DEPARTMENTAL PAY ROLL RECORD

Name: [illegible]

POSITION: Investigator

DEPT: Legal 111

S. & A/C No.

| DATE | VOL. NO. | PERIOD | FUND OR SECTION | AMOUNTS | | DATE | VOL. NO. | PERIOD | FUND OR SECTION | AMOUNTS | |
|--------|----------|-----------|-----------------|---------|---------|--------|----------|-----------|-----------------|---------|---------|
| | | | | DEBITS | CREDITS | | | | | DEBITS | CREDITS |
| 1958 | | | | | | 1959 | | | | | |
| JAN 15 | 7092 | JAN 1 15 | | 25000 | | JAN 15 | 8318 | JAN 1 15 | | 25000 | |
| JAN 31 | 7327 | JAN 16 31 | | 25000 | | JAN 30 | 8315 | JAN 16 31 | | 25000 | |
| FEB 15 | 7373 | FEB 1 15 | | 25000 | | FEB 15 | 8395 | FEB 1 15 | | 25000 | |
| FEB 28 | 7412 | FEB 15 28 | | 25000 | | FEB 27 | 8437 | FEB 16 28 | | 25000 | |
| MAR 1 | 7457 | MAR 1 15 | | 25000 | | MAR 13 | 8477 | MAR 1 15 | | 25000 | |
| MAR 31 | 7512 | MAR 16 31 | | 25000 | | MAR 31 | 8520 | MAR 16 31 | | 25000 | |
| APR 15 | 7554 | APR 1 15 | | 25000 | | APR 15 | 8562 | APR 1 15 | | 25000 | |
| APR 30 | 7599 | APR 16 30 | | 25000 | | APR 30 | 8602 | APR 15 30 | | 10000 | |
| MAY 15 | 7649 | MAY 1 15 | | 25000 | | MAY 15 | 8686 | MAY 1 15 | | 17500 | |
| MAY 29 | 7685 | MAY 16 31 | | 25000 | | MAY 29 | 8682 | MAY 16 31 | | 17500 | |
| JUN 15 | 7730 | JUN 1 15 | | 25000 | | JUN 15 | 8726 | JUN 1 15 | | 20000 | |
| JUN 30 | 7764 | JUN 15 30 | | 25000 | | JUN 30 | 8752 | JUN 16 30 | | 20000 | |
| JUL 15 | 7829 | JUL 1 15 | | 25000 | | JUL 15 | 8803 | JUL 1 15 | | 20000 | |
| JUL 31 | 7867 | JUL 16 31 | | 25000 | | JUL 31 | 8841 | JUL 16 31 | | 20000 | |
| AUG 15 | 7908 | AUG 1 15 | | 25000 | | AUG 14 | 8887 | AUG 1 14 | | 40000 | |
| AUG 31 | 7946 | AUG 15 31 | | 25000 | | AUG 31 | 8924 | AUG 15 31 | | 20000 | |
| SEP 15 | 7983 | SEP 1 15 | | 25000 | | SEP 15 | 8962 | SEP 1 15 | | 30000 | |
| SEP 30 | 8025 | SEP 16 30 | | 25000 | | SEP 30 | 8999 | SEP 16 30 | | 20000 | |
| OCT 15 | 8066 | OCT 1 15 | | 25000 | | OCT 15 | 9056 | OCT 1 15 | | 20000 | |
| OCT 31 | 8106 | OCT 16 31 | | 25000 | | | | | | 400000 | |
| NOV 1 | 8150 | NOV 1 15 | | 25000 | | | | | | | |
| NOV 26 | 8185 | NOV 16 30 | | 25000 | | | | | | | |
| DEC 15 | 8222 | DEC 1 15 | | 25000 | | | | | | | |
| DEC 31 | 8266 | DEC 16 31 | | 25000 | | | | | | | |
| | | | | 600000 | | | | | | | |

[fol. 1232]

BROTHERHOOD OF RAILROAD TRAINMEN

NAME B. Roginski POSITION Investigator DEPT. L.A. S. & A/C No.

| DATE PAID | VOL. NO. | PERIOD | | FUND OR SECTION | AMOUNTS | | DATE PAID | VOL. NO. | PERIOD | | FUND OR SECTION | AMOUNTS | | |
|-----------|----------|--------|----|-----------------|---------|---------|-----------|----------|--------|----|-----------------|---------|---------|-----|
| | | FROM | TO | | DEBTS | CREDITS | | | FROM | TO | | DEBTS | CREDITS | |
| 1956 | | | | | | | 1957 | | | | | | | |
| JAN 15 | 5732 | JAN 1 | 15 | | 25000 | | JAN 15 | 6310 | JAN 1 | 15 | | 25000 | | 1 |
| JAN 31 | 5766 | JAN 16 | 31 | | 25000 | | JAN 31 | 6360 | JAN 15 | 31 | | 25000 | | 2 |
| JAN 15 | 5812 | JAN 1 | 15 | | 25000 | | FEB 15 | 6400 | FEB 1 | 15 | | 25000 | | 3 |
| JAN 30 | 5838 | JAN 16 | 30 | | 25000 | | | | | | | 25000 | | 4 |
| JAN 15 | 5874 | JAN 1 | 15 | | 25000 | | | | | | | 25000 | | 5 |
| JAN 31 | 5915 | JAN 15 | 31 | | 25000 | | JAN 15 | 6470 | JAN 1 | 15 | | 25000 | | 6 |
| FEB 15 | 5940 | FEB 1 | 15 | | 25000 | | JAN 31 | 6525 | JAN 15 | 31 | | 25000 | | 7 |
| | | | | | 25000 | | | | | | | 25000 | | 8 |
| | | | | | 25000 | | | | | | | 25000 | | 9 |
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| | | | | | 25000 | | | | | | | 25000 | | 93 |
| | | | | | 25000 | | | | | | | 25000 | | 94 |
| | | | | | 25000 | | | | | | | 25000 | | 95 |
| | | | | | 25000 | | | | | | | 25000 | | 96 |
| | | | | | 25000 | | | | | | | 25000 | | 97 |
| | | | | | 25000 | | | | | | | 25000 | | 98 |
| | | | | | 25000 | | | | | | | 25000 | | 99 |
| | | | | | 25000 | | | | | | | 25000 | | 100 |

DEPARTMENTAL PAY ROLL RECORD

NAME: [redacted], H. S.

POSITION: Investigator

DEPT: Legal Aid

S. & A/C No.

| DATE PAID | VOL. NO. | PERIOD | | NAME OR SECTION | AMOUNTS | | DATE PAID | VOL. NO. | PERIOD | | NAME OR SECTION | AMOUNTS | |
|-----------|----------|--------|----|-----------------|---------|---------|-----------|----------|--------|----|-----------------|---------|---------|
| | | FROM | TO | | DEBITS | CREDITS | | | FROM | TO | | DEBITS | CREDITS |
| 1958 | | | | | | | 1959 | | | | | | |
| JAN 15 | 7092 | JAN 1 | 15 | | 25000 | | JAN 15 | 8329 | JAN 1 | 15 | | 25000 | |
| JAN 31 | 7327 | JAN 16 | 31 | | 25000 | | JAN 30 | 8355 | JAN 16 | 31 | | 25000 | |
| FEB 15 | 7373 | FEB 1 | 15 | | 25000 | | FEB 13 | 8395 | FEB 1 | 15 | | 25000 | |
| FEB 28 | 7412 | FEB 16 | 28 | | 25000 | | FEB 27 | 8437 | FEB 16 | 28 | | 25000 | |
| MAR 15 | 7457 | MAR 1 | 15 | | 25000 | | MAR 13 | 8477 | MAR 1 | 15 | | 25000 | |
| MAR 31 | 7512 | MAR 16 | 31 | | 25000 | | MAR 31 | 8580 | MAR 16 | 31 | | 25000 | |
| APR 15 | 7559 | APR 1 | 15 | | 25000 | | APR 15 | 8582 | APR 1 | 15 | | 25000 | |
| APR 30 | 7599 | APR 16 | 30 | | 25000 | | APR 30 | 8602 | APR 15 | 30 | | 10000 | |
| MAY 15 | 7644 | MAY 1 | 15 | | 25000 | | MAY 15 | 8636 | MAY 1 | 15 | | 17500 | |
| MAY 29 | 7689 | MAY 16 | 29 | | 25000 | | MAY 29 | 8682 | MAY 16 | 31 | | 17500 | |
| JUN 15 | 7734 | JUN 1 | 15 | | 25000 | | JUN 15 | 8734 | JUN 1 | 15 | | 25000 | |
| JUN 30 | 7779 | JUN 16 | 30 | | 25000 | | JUN 30 | 8762 | JUN 16 | 30 | | 25000 | |
| JUL 15 | 7824 | JUL 1 | 15 | | 25000 | | JUL 15 | 8803 | JUL 1 | 15 | | 25000 | |
| JUL 31 | 7867 | JUL 16 | 31 | | 25000 | | JUL 31 | 8841 | JUL 16 | 31 | | 25000 | |
| AUG 15 | 7909 | AUG 1 | 15 | | 25000 | | AUG 14 | 8887 | AUG 1 | 14 | | 20000 | |
| AUG 31 | 7944 | AUG 16 | 31 | | 25000 | | AUG 31 | 8924 | AUG 15 | 31 | | 10000 | |
| SEP 15 | 7983 | SEP 1 | 15 | | 25000 | | SEP 15 | 8962 | SEP 1 | 15 | | 20000 | |
| SEP 30 | 8025 | SEP 16 | 30 | | 25000 | | SEP 30 | 8999 | SEP 16 | 30 | | 20000 | |
| OCT 15 | 8063 | OCT 1 | 15 | | 25000 | | OCT 15 | 9006 | OCT 1 | 15 | | 20000 | |
| OCT 31 | 8106 | OCT 16 | 31 | | 25000 | | OCT 30 | 9088 | OCT 16 | 30 | | 20000 | |
| NOV 14 | 8151 | NOV 1 | 15 | | 25000 | | NOV 13 | 9136 | NOV 1 | 13 | | 20000 | |
| NOV 26 | 8185 | NOV 16 | 30 | | 25000 | | NOV 30 | 9171 | NOV 16 | 30 | | 20000 | |
| DEC 15 | 8232 | DEC 1 | 15 | | 25000 | | DEC 15 | 9202 | DEC 1 | 15 | | 20000 | |
| DEC 31 | 8276 | DEC 16 | 31 | | 25000 | | DEC 31 | 9254 | DEC 16 | 31 | | 20000 | |
| | | | | | 600000 | | | | | | | 500000 | |

DEPARTMENTAL PAY ROLL RECORD

NAME McMurrian, G. A.

POSITION Investigator

DEPT Legal Att

S. S. A/C No.

| DATE PAID | VO. NO. | PERIOD | | FUND OR SECTION | AMOUNTS | | DATE PAID | VO. NO. | PERIOD | | FUND OR SECTION | AMOUNTS | | |
|-----------|---------|--------|--------|-----------------|---------|---------|-----------|---------|--------|----|-----------------|---------|---------|----|
| | | FROM | TO | | DEBITS | CREDITS | | | FROM | TO | | DEBITS | CREDITS | |
| | | | | | | | 1955 | | | | | | | |
| 1 | | | | | | | | | | | | | | 1 |
| 2 | Nov 15 | 4532 | Nov 15 | | 300.00 | | Nov 15 | 4701 | JAN 1 | 15 | | 175.00 | | 2 |
| 3 | Nov 30 | 4580 | Nov 30 | | 150.00 | | Nov 31 | 4702 | JAN 15 | 31 | | 175.00 | | 3 |
| 4 | Dec 1 | 4638 | Dec 1 | | 150.00 | | Dec 15 | 4784 | FEB 1 | 15 | | 175.00 | | 4 |
| 5 | Dec 15 | 4638 | Dec 15 | | 200.00 | | Dec 28 | 4815 | FEB 15 | 28 | | 175.00 | | 5 |
| 6 | | | | | 200.00 | | Jan 15 | 4849 | MAR 1 | 15 | | 175.00 | | 6 |
| 7 | | | | | | | Mar 31 | 4877 | MAR 15 | 31 | | 175.00 | | 7 |
| 8 | | | | | | | Apr 15 | 4914 | APR 1 | 15 | | 175.00 | | 8 |
| 9 | | | | | | | Apr 30 | 4946 | APR 15 | 30 | | 175.00 | | 9 |
| 10 | | | | | | | May 15 | 4983 | MAY 1 | 30 | | 175.00 | | 10 |
| 11 | | | | | | | May 31 | 5018 | MAY 15 | 30 | | 175.00 | | 11 |
| 12 | | | | | | | Jun 15 | 5052 | JUN 1 | 15 | | 175.00 | | 12 |
| 13 | | | | | | | Jun 30 | 5086 | JUN 15 | 30 | | 175.00 | | 13 |
| 14 | | | | | | | Jul 15 | 5180 | JUL 1 | 15 | | 175.00 | | 14 |
| 15 | | | | | | | Jul 31 | 5134 | JUL 15 | 31 | | 175.00 | | 15 |
| 16 | | | | | | | Aug 15 | 5162 | AUG 1 | 15 | | 175.00 | | 16 |
| 17 | | | | | | | Aug 31 | 5193 | AUG 15 | 31 | | 175.00 | | 17 |
| 18 | | | | | | | Sep 15 | 5217 | SEP 1 | 15 | | 175.00 | | 18 |
| 19 | | | | | | | Sep 30 | 5247 | SEP 15 | 30 | | 175.00 | | 19 |
| 20 | | | | | | | Oct 15 | 5274 | OCT 1 | 15 | | 175.00 | | 20 |
| 21 | | | | | | | Oct 30 | 5303 | OCT 15 | 31 | | 175.00 | | 21 |
| 22 | | | | | | | Nov 15 | 5337 | NOV 1 | 15 | | 175.00 | | 22 |
| 23 | | | | | | | Nov 30 | 5364 | NOV 15 | 30 | | 175.00 | | 23 |
| 24 | | | | | | | Dec 15 | 5396 | DEC 1 | 15 | | 175.00 | | 24 |
| 25 | | | | | | | Dec 30 | 5420 | DEC 15 | 31 | | 175.00 | | 25 |
| 26 | | | | | | | | | | | | | | 26 |
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| 37 | | | | | | | | | | | | | | 37 |
| 38 | | | | | | | | | | | | | | 38 |

[fol. 1237]

DEPARTMENTAL PAY ROLL RECORD

Special Agent, U. S.

Common Investigator

Supv. Legal Aid

S. S. A/C No.

| EMP. NO. | NAME | PERIOD | | RANK OR SECTION | AMOUNTS | | DATE PAID | VO. NO. | PERIOD | | RANK OR SECTION | AMOUNTS | | |
|----------|--------|--------|----|-----------------|---------|--------|-----------|---------|--------|----|-----------------|---------|--------|----|
| | | FROM | TO | | DEBIT | CREDIT | | | FROM | TO | | DEBIT | CREDIT | |
| | | | | | | | 1959 | | | | | | | |
| 7092 | JAN 1 | 15 | | | 200.00 | | JAN 15 | 8329 | JAN 1 | 15 | | 200.00 | | 1 |
| 7327 | JAN 16 | 31 | | | 200.00 | | JAN 30 | 8335 | JAN 16 | 31 | | 200.00 | | 2 |
| 7073 | FEB 1 | 15 | | | 200.00 | | FEB 15 | 8335 | FEB 1 | 15 | | 200.00 | | 3 |
| 7412 | FEB 16 | 28 | | | 200.00 | | FEB 27 | 8437 | FEB 16 | 28 | | 200.00 | | 4 |
| 7457 | MAR 1 | 15 | | | 200.00 | | MAR 13 | 8477 | MAR 1 | 15 | | 200.00 | | 5 |
| 7532 | MAR 16 | 31 | | | 200.00 | | MAR 31 | 8520 | MAR 16 | 31 | | 200.00 | | 6 |
| 7554 | APR 1 | 15 | | | 200.00 | | APR 15 | 8542 | APR 1 | 15 | | 200.00 | | 7 |
| 7594 | APR 16 | 30 | | | 200.00 | | APR 30 | 8602 | APR 16 | 30 | | 1500.00 | | 8 |
| 7649 | MAY 1 | 15 | | | 200.00 | | MAY 15 | 8656 | MAY 1 | 15 | | 175.00 | | 9 |
| 7689 | MAY 16 | 31 | | | 200.00 | | MAY 29 | 8682 | MAY 16 | 31 | | 175.00 | | 10 |
| 7720 | JUN 1 | 15 | | | 200.00 | | JUN 15 | 8726 | JUN 1 | 15 | | 200.00 | | 11 |
| 7784 | JUN 16 | 30 | | | 200.00 | | JUN 30 | 8727 | JUN 16 | 30 | | 200.00 | | 12 |
| 7829 | JUL 1 | 15 | | | 200.00 | | JUL 15 | 8803 | JUL 1 | 15 | | 200.00 | | 13 |
| 7867 | JUL 16 | 31 | | | 200.00 | | JUL 31 | 8841 | JUL 16 | 31 | | 200.00 | | 14 |
| 7908 | AUG 1 | 15 | | | 200.00 | | AUG 15 | 8887 | AUG 1 | 15 | | 200.00 | | 15 |
| 7944 | AUG 16 | 31 | | | 200.00 | | AUG 31 | 8924 | AUG 16 | 31 | | 200.00 | | 16 |
| 7989 | SEP 1 | 15 | | | 200.00 | | SEP 15 | 8935 | SEP 1 | 15 | | 200.00 | | 17 |
| 8015 | SEP 16 | 30 | | | 200.00 | | SEP 30 | 8999 | SEP 16 | 30 | | 200.00 | | 18 |
| 8063 | OCT 1 | 15 | | | 200.00 | | OCT 15 | 9056 | OCT 1 | 15 | | 200.00 | | 19 |
| 8106 | OCT 16 | 31 | | | 200.00 | | OCT 30 | 9089 | OCT 16 | 30 | | 200.00 | | 20 |
| 8151 | NOV 1 | 15 | | | 200.00 | | NOV 15 | 9135 | NOV 1 | 15 | | 200.00 | | 21 |
| 8185 | NOV 16 | 30 | | | 200.00 | | NOV 30 | 9178 | NOV 16 | 30 | | 200.00 | | 22 |
| 8232 | DEC 1 | 15 | | | 200.00 | | DEC 15 | 9232 | DEC 1 | 15 | | 200.00 | | 23 |
| 8276 | DEC 16 | 31 | | | 200.00 | | DEC 31 | 9284 | DEC 16 | 31 | | 200.00 | | 24 |
| | | | | | 4800.00 | | | | | | | | | 25 |
| | | | | | | | | | | | | 4760.00 | | 26 |
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| | | | | | | | | | | | | | | 35 |
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| | | | | | | | | | | | | | | 37 |
| | | | | | | | | | | | | | | 38 |

1237

BROTHERHOOD OF RAILROAD TRAINMEN

NAME McWhorter, O. A.POSITION InspectorDEPT. Legal AidS. & A/C No. 7

| DATE PAID | VOL. NO. | PERIOD | | NAME OR SECTION | AMOUNTS | | DATE PAID | VOL. NO. | PERIOD | | NAME OR SECTION | AMOUNTS | |
|--------------|-------------|--------|----|--------------------|---------|--------|--------------|-------------|--------|----|--------------------|---------|--------|
| | | FROM | TO | | DEBIT | CREDIT | | | FROM | TO | | DEBIT | CREDIT |
| 1960 | | | | | | | | | | | | | |
| FEB 27 | | | 29 | | 117.24 | | | | | | | | |
| MAR 15 | | | 15 | | 200.00 | | | | | | | | |
| MAR 31 | 9625 | | 31 | | 200.00 | | | | | | | | |
| MAR 31 | 968 | | 15 | | 21.74 | | | | | | | | |
| MAR 31 | 970 | | 29 | | 200.00 | | | | | | | | |
| | | | | | 417.24 | | | | | | | | |

[fol. 1239]

DEPARTMENTAL PAY ROLL RECORD

FEDERAL Investigator

DEPT. Legal Aid

S. E. A/CN

| NO. | NAME | GRADE | DATE | AMOUNTS | DATE PAID | VOL. NO. | RECORD | PAGE OF SECTION | AMOUNTS | NO. |
|-----|------------|-----------|--------|---------|-----------|----------|-----------|-----------------|---------|-----|
| | | | | | | | | | | |
| | | | | | 1955 | | | | | |
| 1 | W. J. 3074 | JAN 15 31 | 17500 | | JAN 15 | 4701 | JAN 1 15 | | 5000 | 1 |
| 2 | W. J. 3074 | JAN 15 31 | 17500 | | JAN 31 | 4701 | JAN 15 31 | | 5000 | 2 |
| 3 | W. J. 3074 | FEB 1 15 | 17500 | | FEB 15 | 4786 | FEB 1 15 | | 5000 | 3 |
| 4 | W. J. 3074 | FEB 1 15 | 17500 | | FEB 28 | 4011 | FEB 15 28 | | 5000 | 4 |
| 5 | W. J. 3074 | MAR 1 15 | 17500 | | MAR 15 | 4749 | MAR 1 15 | | 5000 | 5 |
| 6 | W. J. 3074 | MAR 15 31 | 17500 | | MAR 31 | 4872 | MAR 15 31 | | 5000 | 6 |
| 7 | W. J. 3074 | APR 1 15 | 17500 | | APR 15 | 4914 | APR 1 15 | | 5000 | 7 |
| 8 | W. J. 3074 | APR 15 30 | 17500 | | APR 30 | 4946 | APR 15 30 | | 5000 | 8 |
| 9 | W. J. 3074 | MAY 1 15 | 17500 | | MAY 15 | 4983 | MAY 1 15 | | 5000 | 9 |
| 10 | W. J. 3074 | MAY 15 31 | 17500 | | MAY 31 | 5018 | MAY 15 30 | | 5000 | 10 |
| 11 | W. J. 3074 | JUN 1 15 | 17500 | | JUN 15 | 5052 | JUN 1 15 | | 5000 | 11 |
| 12 | W. J. 3074 | JUN 15 30 | 242258 | | JUN 30 | 5088 | JUN 15 30 | | 5000 | 12 |
| 13 | W. J. 3074 | JUL 1 15 | 17500 | | JUL 15 | 5181 | JUL 1 15 | | 5000 | 13 |
| 14 | W. J. 3074 | JUL 15 31 | 17500 | | JUL 31 | 5134 | JUL 15 31 | | 5000 | 14 |
| 15 | W. J. 3074 | AUG 1 15 | 17500 | | AUG 15 | 5162 | AUG 1 15 | | 5000 | 15 |
| 16 | W. J. 3074 | AUG 15 31 | 17500 | | AUG 31 | 5192 | AUG 15 31 | | 5000 | 16 |
| 17 | W. J. 3074 | SEP 1 15 | 17500 | | SEP 15 | 5217 | SEP 1 15 | | 5000 | 17 |
| 18 | W. J. 3074 | SEP 15 30 | 215000 | | SEP 30 | 5241 | SEP 15 30 | | 5000 | 18 |
| 19 | W. J. 3074 | OCT 1 15 | 17500 | | OCT 15 | 5271 | OCT 1 15 | | 5000 | 19 |
| 20 | W. J. 3074 | OCT 15 31 | 17500 | | OCT 30 | 5303 | OCT 15 31 | | 5000 | 20 |
| 21 | W. J. 3074 | NOV 1 15 | 17500 | | NOV 15 | 5337 | NOV 1 15 | | 5000 | 21 |
| 22 | W. J. 3074 | NOV 15 30 | 17500 | | NOV 30 | 5364 | NOV 15 30 | | 5000 | 22 |
| 23 | W. J. 3074 | DEC 1 15 | 5000 | | DEC 15 | 5396 | DEC 1 15 | | 5000 | 23 |
| 24 | W. J. 3074 | DEC 15 31 | 5000 | | DEC 30 | 5420 | DEC 15 31 | | 5000 | 24 |
| 25 | | | 175000 | | | | | | 175000 | 25 |

.1239

[fol. 1240]

EXPENDITURE PAY ROLL RECORD

WILLIAM L. T.

Common Investigator

| | |
|------|-----------|
| PORT | Local A10 |
|------|-----------|

S. S. A/C Hong

| DATE | NO. | PERIOD | FUND OR SECTION | AMOUNTS | | DATE PAID | VO. NO. | PERIOD | FUND OR SECTION | AMOUNTS | |
|------|-----|--------|--------------------|---------|--------|--------------|------------|--------|--------------------|---------|--------|
| | | | | DEBIT | CREDIT | | | | | DEBIT | CREDIT |
| 1934 | 384 | JAN 15 | | 20000 | | 1935 | | | | | |
| 1934 | 384 | JAN 15 | | 20000 | | JAN 15 | 470 | JAN 15 | | 20000 | |
| 1934 | 384 | JAN 15 | | 20000 | | JAN 31 | 470 | JAN 15 | | 20000 | |
| 1934 | 384 | JAN 15 | | 20000 | | FEB 15 | 478 | FEB 15 | | 20000 | |
| 1934 | 384 | JAN 15 | | 20000 | | FEB 28 | 4815 | FEB 15 | | 20000 | |
| 1934 | 384 | JAN 15 | | 20000 | | MAR 15 | 4049 | MAR 15 | | 20000 | |
| 1934 | 384 | JAN 15 | | 20000 | | MAR 31 | 4877 | MAR 15 | | 20000 | |
| 1934 | 384 | JAN 15 | | 20000 | | APR 15 | 4914 | APR 15 | | 20000 | |
| 1934 | 384 | JAN 15 | | 20000 | | APR 30 | 494 | APR 15 | | 20000 | |
| 1934 | 384 | JAN 15 | | 20000 | | MAY 15 | 4981 | MAY 15 | | 20000 | |
| 1934 | 384 | JAN 15 | | 20000 | | MAY 31 | 5018 | MAY 15 | | 20000 | |
| 1934 | 384 | JAN 15 | | 20000 | | JUN 15 | 5052 | JUN 15 | | 20000 | |
| 1934 | 384 | JAN 15 | | 20000 | | JUN 30 | 5080 | JUN 15 | | 20000 | |
| 1934 | 384 | JAN 15 | | 20000 | | JUL 15 | 516 | JUL 15 | | 20000 | |
| 1934 | 384 | JAN 15 | | 20000 | | JUL 31 | 5134 | JUL 15 | | 20000 | |
| 1934 | 384 | JAN 15 | | 20000 | | AUG 15 | 5162 | AUG 15 | | 20000 | |
| 1934 | 384 | JAN 15 | | 20000 | | AUG 31 | 519 | AUG 15 | | 20000 | |
| 1934 | 384 | JAN 15 | | 20000 | | SEP 15 | 521 | SEP 15 | | 20000 | |
| 1934 | 384 | JAN 15 | | 20000 | | SEP 30 | 524 | SEP 15 | | 20000 | |
| 1934 | 384 | JAN 15 | | 20000 | | OCT 15 | 527 | OCT 15 | | 20000 | |
| 1934 | 384 | JAN 15 | | 20000 | | OCT 30 | 5303 | OCT 15 | | 20000 | |
| 1934 | 384 | JAN 15 | | 20000 | | NOV 15 | 533 | NOV 15 | | 20000 | |
| 1934 | 384 | JAN 15 | | 20000 | | NOV 30 | 5364 | NOV 15 | | 20000 | |
| 1934 | 384 | JAN 15 | | 20000 | | DEC 15 | 5396 | DEC 15 | | 20000 | |
| 1934 | 384 | JAN 15 | | 20000 | | DEC 30 | 5428 | DEC 15 | | 20000 | |

DEPARTMENTAL PAY ROLL RECORD

NAME Miller, R. T.

POSITION Investigator

DEPT. Legal Aid

S. & A/C No.

| DATE | NO. | PERIOD | FUND OR SECTION | AMOUNTS | | DATE | NO. | PERIOD | FUND OR SECTION | AMOUNTS | |
|--------|------|-----------|-----------------|---------|--------|--------|------|-----------|-----------------|---------|--------|
| | | | | DEBIT | CREDIT | | | | | DEBIT | CREDIT |
| 1958 | | | | | | 1959 | | | | | |
| JAN 15 | 7092 | JAN 1 15 | | 17500 | | JAN 15 | 8319 | JAN 1 15 | | 17500 | |
| JAN 31 | 7327 | JAN 1 31 | | 17500 | | JAN 30 | 8350 | JAN 1 31 | | 17500 | |
| FEB 15 | 7373 | FEB 1 15 | | 17500 | | FEB 13 | 8395 | FEB 1 15 | | 17500 | |
| FEB 28 | 7411 | FEB 15 28 | | 17500 | | FEB 27 | 8437 | FEB 16 28 | | 17500 | |
| MAR 14 | 7457 | MAR 1 15 | | 17500 | | MAR 13 | 8477 | MAR 1 15 | | 17500 | |
| MAR 31 | 7512 | MAR 1 31 | | 17500 | | MAR 31 | 8500 | MAR 16 31 | | 17500 | |
| APR 15 | 7554 | APR 1 15 | | 17500 | | APR 15 | | APR 1 15 | | 17500 | |
| APR 30 | 7599 | APR 1 30 | | 17500 | | APR 30 | 8602 | APR 15 30 | | 17500 | |
| MAY 15 | 7649 | MAY 1 15 | | 17500 | | MAY 15 | 8636 | MAY 1 15 | | 17500 | |
| MAY 29 | 7685 | MAY 16 31 | | 17500 | | MAY 29 | 8682 | MAY 16 31 | | 17500 | |
| JUN 15 | 7730 | JUN 1 15 | | 17500 | | JUN 15 | 8726 | JUN 1 15 | | 17500 | |
| JUN 30 | 7829 | JUN 1 30 | | 17500 | | JUN 30 | 8762 | JUN 1 30 | | 20000 | |
| JUL 15 | 7867 | JUL 1 15 | | 17500 | | JUL 15 | 8811 | JUL 1 15 | | 20000 | |
| JUL 31 | 7900 | JUL 16 31 | | 17500 | | JUL 31 | 8841 | JUL 16 31 | | 20000 | |
| AUG 15 | 7944 | AUG 1 15 | | 17500 | | AUG 15 | 8887 | AUG 1 15 | | 20000 | |
| AUG 31 | 7989 | AUG 16 31 | | 17500 | | AUG 31 | 8924 | AUG 16 31 | | 20000 | |
| SEP 15 | 8015 | SEP 1 15 | | 17500 | | SEP 15 | 8962 | SEP 1 15 | | 20000 | |
| SEP 30 | 8063 | SEP 16 30 | | 17500 | | SEP 30 | | SEP 16 30 | | 20000 | |
| OCT 15 | 8106 | OCT 1 15 | | 17500 | | | | | | 20000 | |
| OCT 31 | 8151 | OCT 16 31 | | 17500 | | | | | | 20000 | |
| NOV 15 | 8191 | NOV 1 15 | | 17500 | | | | | | 20000 | |
| NOV 30 | 8232 | NOV 16 30 | | 17500 | | | | | | 20000 | |
| DEC 15 | 8276 | DEC 1 15 | | 17500 | | | | | | 20000 | |
| DEC 31 | | DEC 16 31 | | 17500 | | | | | | 20000 | |
| | | | | 425000 | | | | | | 315000 | |

See 15 & 16. Remarks

10000

DEPARTMENTAL PAY ROLL RECORD

NAME Moss, R. H.

POSITION Investigator

DEPT. 12241

S. S. A/C No.

| DATE PAID | VO. NO. | PERIOD | | FUND OR SECTION | AMOUNTS | | DATE PAID | VO. NO. | PERIOD | | FUND OR SECTION | AMOUNTS | |
|--------------|------------|--------|----|--------------------|---------|---------|--------------|------------|--------|----|--------------------|---------|---------|
| | | FROM | TO | | DEBTS | CREDITS | | | FROM | TO | | DEBTS | CREDITS |
| JAN 15 '54 | 3874 | JAN 1 | 15 | | 25000 | | 1955 | | | | | | |
| JAN 15 '54 | 3874 | JAN 15 | 31 | | 25000 | | 15 | 4701 | JAN 1 | 15 | | 25000 | |
| FEB 15 '54 | 393 | FEB 1 | 15 | | 25000 | | JAN 31 | 4701 | JAN 15 | 31 | | 25000 | |
| FEB 15 '54 | 393 | FEB 16 | 28 | | 25000 | | FEB 15 | 4786 | FEB 1 | 15 | | 25000 | |
| MAR 15 '54 | 400 | MAR 1 | 15 | | 25000 | | FEB 28 | 4811 | FEB 15 | 23 | | 25000 | |
| MAR 15 '54 | 4003 | MAR 15 | 31 | | 25000 | | MAR 15 | 4847 | MAR 1 | 15 | | 25000 | |
| APR 15 '54 | 4082 | APR 1 | 15 | | 25000 | | MAR 31 | 4877 | MAR 15 | 31 | | 25000 | |
| APR 15 '54 | 4082 | APR 15 | 30 | | 25000 | | APR 15 | 4914 | APR 1 | 15 | | 25000 | |
| MAY 15 '54 | 4158 | MAY 1 | 15 | | 25000 | | APR 30 | 4944 | APR 15 | 30 | | 25000 | |
| MAY 15 '54 | 4158 | MAY 15 | 31 | | 25000 | | MAY 15 | 4983 | MAY 1 | 15 | | 25000 | |
| JUN 15 '54 | 4218 | JUN 1 | 15 | | 25000 | | MAY 31 | 5018 | MAY 15 | 30 | | 25000 | |
| JUN 15 '54 | 4218 | JUN 15 | 30 | | 25000 | | JUN 15 | 5052 | JUN 1 | 15 | | 25000 | |
| JUL 15 '54 | 4254 | JUL 1 | 15 | | 25000 | | JUN 30 | 5088 | JUN 15 | 30 | | 25000 | |
| JUL 15 '54 | 4254 | JUL 15 | 31 | | 25000 | | JUL 15 | 5181 | JUL 1 | 15 | | 25000 | |
| AUG 15 '54 | 4354 | AUG 1 | 15 | | 25000 | | JUL 31 | 5134 | JUL 15 | 31 | | 25000 | |
| AUG 15 '54 | 4354 | AUG 15 | 31 | | 25000 | | AUG 15 | 5162 | AUG 1 | 15 | | 25000 | |
| SEP 15 '54 | 444 | SEP 1 | 15 | | 25000 | | AUG 31 | 5192 | AUG 15 | 31 | | 25000 | |
| SEP 15 '54 | 444 | SEP 15 | 30 | | 25000 | | SEP 15 | 5217 | SEP 1 | 15 | | 25000 | |
| OCT 15 '54 | 4524 | OCT 1 | 15 | | 25000 | | SEP 30 | 5247 | SEP 15 | 30 | | 25000 | |
| OCT 15 '54 | 4524 | OCT 15 | 29 | | 25000 | | OCT 15 | 5271 | OCT 1 | 15 | | 25000 | |
| NOV 15 '54 | 4580 | NOV 1 | 15 | | 25000 | | OCT 30 | 5307 | OCT 15 | 31 | | 25000 | |
| NOV 15 '54 | 4580 | NOV 15 | 30 | | 25000 | | NOV 15 | 5337 | NOV 1 | 15 | | 25000 | |
| DEC 15 '54 | 4638 | DEC 1 | 15 | | 25000 | | NOV 30 | 5364 | NOV 15 | 30 | | 25000 | |
| DEC 15 '54 | 4638 | DEC 15 | 31 | | 25000 | | DEC 15 | 5394 | DEC 1 | 15 | | 25000 | |
| | | | | | | | DEC 30 | 5428 | DEC 15 | 31 | | 25000 | |

1990

PERSONAL IDENTIFICATION

DEPT. Legal Aid

S. S. A/C No.

1245-

EXPERIENCES OF BARBARA WILSON

Personnel Information

DATE _____

CLASS

[illegible]

WILLIAM L. BROWN

• curr. Legal Aid

LEACH

[illegible]

BROTHERHOOD OF RAILROAD TRAINMEN

NAME David, D. J.

Foreign Investigation

new Local 114

22A/CN

[illegible]

'ELAC No.

1251

RECORDS OF BARRED TRAINERS

NAME Class, C.

FOURTH TRAINING

DATE Local Aid

S.S.A./C.

| 1950 | | | | AMOUNTS | | 1951 | | | | AMOUNTS | |
|--------|------|-------------|--------|---------|------|-------------|--------|--------|------|-------------|--------|
| DATE | NO. | DESCRIPTION | AMOUNT | DATE | NO. | DESCRIPTION | AMOUNT | DATE | NO. | DESCRIPTION | AMOUNT |
| JUN 15 | 5456 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5457 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5458 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5459 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5460 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5461 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5462 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5463 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5464 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5465 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5466 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5467 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5468 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5469 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5470 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5471 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5472 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5473 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5474 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5475 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5476 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5477 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5478 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5479 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5480 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5481 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5482 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5483 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5484 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5485 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5486 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5487 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5488 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5489 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5490 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5491 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5492 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5493 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5494 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5495 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5496 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
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| JUN 15 | 5498 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5499 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5500 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5501 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5502 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5503 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5504 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5505 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5506 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5507 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5508 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5509 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5510 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
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| JUN 15 | 5513 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5514 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5515 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
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| JUN 15 | 5524 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5525 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5526 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5527 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5528 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5529 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5530 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5531 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5532 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5533 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5534 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5535 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5536 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5537 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5538 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5539 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5540 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5541 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5542 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5543 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5544 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5545 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5546 | JUN 15 | 15 | JUN 15 | 6316 | JUN 15 | 31 | JUN 15 | 6316 | JUN 15 | 31 |
| JUN 15 | 5547 | JUN 15 | 15 | | | | | | | | |

DEPARTMENTAL PAY ROLL RECORD

NAME: [illegible]

POSITION: [illegible]

DEPT: Legal Aid

L & A/CN: [illegible]

| NO. | NAME | PERIOD | FUND OR SECTION | AMOUNTS | | DATE PAID | VO. NO. | PERIOD | FUND OR SECTION | AMOUNTS | | NO. |
|-----|------|-----------|-----------------|---------|--------|-----------|---------|-----------|-----------------|---------|--------|-----|
| | | | | DEBIT | CREDIT | | | | | DEBIT | CREDIT | |
| | | | | | | 1959 | | | | | | |
| 1 | 7092 | JAN 1 15 | | 20000 | | JAN 15 | 8319 | JAN 1 15 | | 20000 | | 1 |
| 2 | 7307 | JAN 15 31 | | 20000 | | JAN 30 | 8355 | JAN 16 31 | | 20000 | | 2 |
| 3 | 7371 | FEB 1 15 | | 20000 | | FEB 15 | 8355 | FEB 1 15 | | 20000 | | 3 |
| 4 | 7412 | FEB 15 28 | | 20000 | | FEB 27 | 8437 | FEB 16 28 | | 20000 | | 4 |
| 5 | 7497 | MAR 1 15 | | 20000 | | MAR 15 | 8477 | MAR 1 15 | | 20000 | | 5 |
| 6 | 7512 | MAR 16 31 | | 20000 | | MAR 31 | 8520 | MAR 16 31 | | 20000 | | 6 |
| 7 | 7554 | APR 1 15 | | 20000 | | APR 15 | 8552 | APR 1 15 | | 20000 | | 7 |
| 8 | 7599 | APR 16 30 | | 20000 | | APR 30 | 8602 | APR 15 30 | | 15000 | | 8 |
| 9 | 7612 | MAY 1 15 | | 20000 | | MAY 15 | 8636 | MAY 1 15 | | 17500 | | 9 |
| 10 | 7632 | MAY 16 31 | | 20000 | | MAY 29 | 8682 | MAY 16 31 | | 17500 | | 10 |
| 11 | 7730 | JUN 1 15 | | 20000 | | JUN 15 | 8720 | JUN 1 15 | | 20000 | | 11 |
| 12 | 7740 | JUN 16 30 | | 20000 | | JUN 30 | 8752 | JUN 16 30 | | 20000 | | 12 |
| 13 | 7829 | JUL 1 15 | | 20000 | | JUL 15 | 8803 | JUL 1 15 | | 20000 | | 13 |
| 14 | 7867 | JUL 16 31 | | 20000 | | JUL 31 | 8841 | JUL 16 31 | | 20000 | | 14 |
| 15 | 7908 | AUG 1 15 | | 20000 | | AUG 14 | 8887 | AUG 1 14 | | 20000 | | 15 |
| 16 | 7944 | AUG 15 31 | | 20000 | | AUG 31 | 8924 | AUG 15 31 | | 20000 | | 16 |
| 17 | 7993 | SEP 1 15 | | 20000 | | SEP 15 | 8942 | SEP 1 15 | | 20000 | | 17 |
| 18 | 8015 | SEP 16 30 | | 20000 | | SEP 30 | 8990 | SEP 16 30 | | 20000 | | 18 |
| 19 | 8063 | OCT 1 15 | | 20000 | | OCT 15 | 9050 | OCT 1 15 | | 20000 | | 19 |
| 20 | 8106 | OCT 16 31 | | 20000 | | OCT 30 | 9088 | OCT 16 30 | | 20000 | | 20 |
| 21 | 8150 | NOV 1 15 | | 20000 | | NOV 15 | 9136 | NOV 1 15 | | 20000 | | 21 |
| 22 | 8185 | NOV 16 30 | | 20000 | | NOV 30 | 9171 | NOV 16 30 | | 20000 | | 22 |
| 23 | 8222 | DEC 1 15 | | 20000 | | DEC 15 | 9202 | DEC 1 15 | | 20000 | | 23 |
| 24 | 8266 | DEC 16 31 | | 20000 | | DEC 31 | 9234 | DEC 16 31 | | 20000 | | 24 |
| | | | | 180000 | | | | | | | | |
| | | | | | | | | | | 470000 | | |

BROTHERHOOD OF RAILROAD TRAINMEN

NAME Starr, W.

POSITION Investigator

DEPT. Local AM

L.S.A./C.N.

| DATE PAID | NO. NO. | PERIOD | | PAID ON BEHALF | AMOUNTS | | DATE PAID | NO. NO. | PERIOD | | PAID ON BEHALF | AMOUNTS | |
|-----------|---------|--------|----|----------------|---------|--------|-----------|---------|--------|----|----------------|---------|--------|
| | | FROM | TO | | DEBIT | CREDIT | | | FROM | TO | | DEBIT | CREDIT |
| 1960 | | | | | | | | | | | | | |
| JUL 15 | | | | | 200.00 | | | | | | | | |
| | | | | | 200.00 | | | | | | | | |
| | | | | | 200.00 | | | | | | | | |
| FEB 21 | 953 | | | | 200.00 | | | | | | | | |
| | | | | | 200.00 | | | | | | | | |
| MAY 15 | 9625 | | | | 200.00 | | | | | | | | |
| | | | | | 200.00 | | | | | | | | |
| MAY 31 | 9629 | | | | 100.00 | | | | | | | | |
| | | | | | 100.00 | | | | | | | | |
| MAY 15 | 9631 | | | | 200.00 | | | | | | | | |
| | | | | | 200.00 | | | | | | | | |
| MAY 29 | 9728 | | | | 200.00 | | | | | | | | |
| | | | | | 200.00 | | | | | | | | |

BROTHERHOOD OF RAILROAD TRAINMEN

NAME Storrval, E.A.

POSITION Investigator

LLA/CN

| | DATE | | PERIOD | | AMOUNTS | |
|----|------|------|--------|----|---------|--------|
| | PAY | NOL. | FROM | TO | DEBIT | CREDIT |
| 1 | | | | | | |
| 2 | | | | | | |
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[fol. 1256]

DEPARTMENTAL PAY ROLL RECORD

New York, N. Y.

Physical Investigator

Oct. 1941

S. S. A. C. H.

| | | | | AMOUNTS | | DATE AND TIME | | | DATE AND TIME | AMOUNTS | |
|-----|------|-------|--------|---------|-------|---------------------|-----|------|---------------------|---------|-------|
| NO. | NAME | GRADE | STATUS | BASE | OTHER | | NO. | NAME | | BASE | OTHER |
| | | | | | | 1941 | | | | | |
| 115 | 7092 | 20 | 15 | 7500 | | | | | | | |
| 116 | 7097 | 20 | 31 | 7500 | | | | | | | |
| 117 | 7213 | 20 | 25 | 7500 | | | | | | | |
| 118 | 7412 | 20 | 26 | 7500 | | | | | | | |
| 119 | 7457 | 20 | 19 | 7500 | | | | | | | |
| 120 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 121 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 122 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 123 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 124 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 125 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 126 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 127 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 128 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 129 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 130 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 131 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 132 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 133 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 134 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 135 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 136 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 137 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 138 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 139 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 140 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 141 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 142 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 143 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 144 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 145 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 146 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 147 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 148 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 149 | 7512 | 20 | 31 | 7500 | | | | | | | |
| 150 | 7512 | 20 | 31 | 7500 | | | | | | | |

[fol. 1257]

DEPARTMENTAL PAY ROLL RECORD

NAME: TAYLOR, R. O.

POSITION: Investigator

DEPT.: Legal Aid

S. & A/C No.

| NO. | NAME | DATE | TIME | AMOUNTS | DATE | VOL. | FROM | TO | FUND OR SECTION | AMOUNTS | NO. |
|-----|-------------|--------|------|---------|--------|------|--------|----|-----------------|---------|-----|
| | | | | | | | | | | | |
| | | | | | 1965 | | | | | | |
| 1 | JAN 15 387 | JAN 15 | 31 | 25000 | JAN 15 | 4701 | JAN 1 | 15 | | 25000 | 1 |
| 2 | JAN 15 387 | JAN 15 | 31 | 25000 | JAN 31 | 4702 | JAN 1 | 31 | | 25000 | 2 |
| 3 | FEB 15 393 | FEB 1 | 15 | 25000 | FEB 15 | 4784 | FEB 1 | 15 | | 25000 | 3 |
| 4 | FEB 15 393 | FEB 16 | 28 | 25000 | FEB 28 | 4785 | FEB 16 | 28 | | 25000 | 4 |
| 5 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4786 | MAR 1 | 15 | | 25000 | 5 |
| 6 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4787 | MAR 1 | 15 | | 25000 | 6 |
| 7 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4788 | MAR 1 | 15 | | 25000 | 7 |
| 8 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4789 | MAR 1 | 15 | | 25000 | 8 |
| 9 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4790 | MAR 1 | 15 | | 25000 | 9 |
| 10 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4791 | MAR 1 | 15 | | 25000 | 10 |
| 11 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4792 | MAR 1 | 15 | | 25000 | 11 |
| 12 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4793 | MAR 1 | 15 | | 25000 | 12 |
| 13 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4794 | MAR 1 | 15 | | 25000 | 13 |
| 14 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4795 | MAR 1 | 15 | | 25000 | 14 |
| 15 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4796 | MAR 1 | 15 | | 25000 | 15 |
| 16 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4797 | MAR 1 | 15 | | 25000 | 16 |
| 17 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4798 | MAR 1 | 15 | | 25000 | 17 |
| 18 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4799 | MAR 1 | 15 | | 25000 | 18 |
| 19 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4800 | MAR 1 | 15 | | 25000 | 19 |
| 20 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4801 | MAR 1 | 15 | | 25000 | 20 |
| 21 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4802 | MAR 1 | 15 | | 25000 | 21 |
| 22 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4803 | MAR 1 | 15 | | 25000 | 22 |
| 23 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4804 | MAR 1 | 15 | | 25000 | 23 |
| 24 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4805 | MAR 1 | 15 | | 25000 | 24 |
| 25 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4806 | MAR 1 | 15 | | 25000 | 25 |
| 26 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4807 | MAR 1 | 15 | | 25000 | 26 |
| 27 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4808 | MAR 1 | 15 | | 25000 | 27 |
| 28 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4809 | MAR 1 | 15 | | 25000 | 28 |
| 29 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4810 | MAR 1 | 15 | | 25000 | 29 |
| 30 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4811 | MAR 1 | 15 | | 25000 | 30 |
| 31 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4812 | MAR 1 | 15 | | 25000 | 31 |
| 32 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4813 | MAR 1 | 15 | | 25000 | 32 |
| 33 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4814 | MAR 1 | 15 | | 25000 | 33 |
| 34 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4815 | MAR 1 | 15 | | 25000 | 34 |
| 35 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4816 | MAR 1 | 15 | | 25000 | 35 |
| 36 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4817 | MAR 1 | 15 | | 25000 | 36 |
| 37 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4818 | MAR 1 | 15 | | 25000 | 37 |
| 38 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4819 | MAR 1 | 15 | | 25000 | 38 |
| 39 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4820 | MAR 1 | 15 | | 25000 | 39 |
| 40 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4821 | MAR 1 | 15 | | 25000 | 40 |
| 41 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4822 | MAR 1 | 15 | | 25000 | 41 |
| 42 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4823 | MAR 1 | 15 | | 25000 | 42 |
| 43 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4824 | MAR 1 | 15 | | 25000 | 43 |
| 44 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4825 | MAR 1 | 15 | | 25000 | 44 |
| 45 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4826 | MAR 1 | 15 | | 25000 | 45 |
| 46 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4827 | MAR 1 | 15 | | 25000 | 46 |
| 47 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4828 | MAR 1 | 15 | | 25000 | 47 |
| 48 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4829 | MAR 1 | 15 | | 25000 | 48 |
| 49 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4830 | MAR 1 | 15 | | 25000 | 49 |
| 50 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4831 | MAR 1 | 15 | | 25000 | 50 |
| 51 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4832 | MAR 1 | 15 | | 25000 | 51 |
| 52 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4833 | MAR 1 | 15 | | 25000 | 52 |
| 53 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4834 | MAR 1 | 15 | | 25000 | 53 |
| 54 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4835 | MAR 1 | 15 | | 25000 | 54 |
| 55 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4836 | MAR 1 | 15 | | 25000 | 55 |
| 56 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4837 | MAR 1 | 15 | | 25000 | 56 |
| 57 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4838 | MAR 1 | 15 | | 25000 | 57 |
| 58 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4839 | MAR 1 | 15 | | 25000 | 58 |
| 59 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4840 | MAR 1 | 15 | | 25000 | 59 |
| 60 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4841 | MAR 1 | 15 | | 25000 | 60 |
| 61 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4842 | MAR 1 | 15 | | 25000 | 61 |
| 62 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4843 | MAR 1 | 15 | | 25000 | 62 |
| 63 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4844 | MAR 1 | 15 | | 25000 | 63 |
| 64 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4845 | MAR 1 | 15 | | 25000 | 64 |
| 65 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4846 | MAR 1 | 15 | | 25000 | 65 |
| 66 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4847 | MAR 1 | 15 | | 25000 | 66 |
| 67 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4848 | MAR 1 | 15 | | 25000 | 67 |
| 68 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4849 | MAR 1 | 15 | | 25000 | 68 |
| 69 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4850 | MAR 1 | 15 | | 25000 | 69 |
| 70 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4851 | MAR 1 | 15 | | 25000 | 70 |
| 71 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4852 | MAR 1 | 15 | | 25000 | 71 |
| 72 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4853 | MAR 1 | 15 | | 25000 | 72 |
| 73 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4854 | MAR 1 | 15 | | 25000 | 73 |
| 74 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4855 | MAR 1 | 15 | | 25000 | 74 |
| 75 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4856 | MAR 1 | 15 | | 25000 | 75 |
| 76 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4857 | MAR 1 | 15 | | 25000 | 76 |
| 77 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4858 | MAR 1 | 15 | | 25000 | 77 |
| 78 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4859 | MAR 1 | 15 | | 25000 | 78 |
| 79 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4860 | MAR 1 | 15 | | 25000 | 79 |
| 80 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4861 | MAR 1 | 15 | | 25000 | 80 |
| 81 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4862 | MAR 1 | 15 | | 25000 | 81 |
| 82 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4863 | MAR 1 | 15 | | 25000 | 82 |
| 83 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4864 | MAR 1 | 15 | | 25000 | 83 |
| 84 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4865 | MAR 1 | 15 | | 25000 | 84 |
| 85 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4866 | MAR 1 | 15 | | 25000 | 85 |
| 86 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4867 | MAR 1 | 15 | | 25000 | 86 |
| 87 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4868 | MAR 1 | 15 | | 25000 | 87 |
| 88 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4869 | MAR 1 | 15 | | 25000 | 88 |
| 89 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4870 | MAR 1 | 15 | | 25000 | 89 |
| 90 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4871 | MAR 1 | 15 | | 25000 | 90 |
| 91 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4872 | MAR 1 | 15 | | 25000 | 91 |
| 92 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4873 | MAR 1 | 15 | | 25000 | 92 |
| 93 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4874 | MAR 1 | 15 | | 25000 | 93 |
| 94 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4875 | MAR 1 | 15 | | 25000 | 94 |
| 95 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4876 | MAR 1 | 15 | | 25000 | 95 |
| 96 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4877 | MAR 1 | 15 | | 25000 | 96 |
| 97 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4878 | MAR 1 | 15 | | 25000 | 97 |
| 98 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4879 | MAR 1 | 15 | | 25000 | 98 |
| 99 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4880 | MAR 1 | 15 | | 25000 | 99 |
| 100 | MAR 15 4083 | MAR 1 | 15 | 25000 | MAR 15 | 4881 | MAR 1 | 15 | | 25000 | 100 |

1257

BROTHERHOOD OF RAILROAD TRAINMEN

NAME Taylor, D. O. POSITION Investigator DEPT Legal Aid L & A/CN

| DATE PAID | | VOL. NO. | | PERIOD | | END OF PERIOD | | AMOUNTS | | DATE PAID | | VOL. NO. | | PERIOD | | END OF PERIOD | | AMOUNTS | | | |
|-----------|------|----------|----|--------|-------|---------------|--|---------|------|-----------|----|----------|-------|--------|--|---------------|--|---------|--|--|--|
| | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | |
| 1956 | | | | | | | | | | | | | | | | | | | | | |
| JUN 15 | 5455 | JUN 1 | 15 | | 25000 | | | JUN 15 | 6316 | JUN 1 | 15 | | 25000 | | | | | | | | |
| JUN 31 | 5487 | JUN 16 | 31 | | 25000 | | | JUN 31 | 6362 | JUN 15 | 31 | | 25000 | | | | | | | | |
| JUL 15 | 5514 | JUL 1 | 15 | | 25000 | | | JUL 15 | 6408 | JUL 1 | 15 | | 25000 | | | | | | | | |
| FEB 29 | 5542 | FEB 1 | 29 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| AUG 15 | 5580 | AUG 1 | 15 | | 25000 | | | AUG 15 | 6470 | AUG 1 | 15 | | 25000 | | | | | | | | |
| SEP 15 | 5619 | SEP 1 | 15 | | 25000 | | | SEP 15 | 6525 | SEP 15 | 31 | | 25000 | | | | | | | | |
| OCT 15 | 5659 | OCT 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| NOV 15 | 5699 | NOV 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| DEC 15 | 5739 | DEC 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| JAN 15 | 5784 | JAN 16 | 31 | | 25000 | | | JAN 29 | 6690 | JAN 16 | 31 | | 25000 | | | | | | | | |
| FEB 15 | 5825 | FEB 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| MAR 15 | 5870 | MAR 16 | 30 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| APR 15 | 5915 | APR 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| MAY 15 | 5960 | MAY 15 | 31 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| JUN 15 | 6005 | JUN 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| JUL 15 | 6050 | JUL 15 | 31 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| AUG 15 | 6095 | AUG 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| SEP 15 | 6140 | SEP 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| OCT 15 | 6185 | OCT 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| NOV 15 | 6230 | NOV 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| DEC 15 | 6275 | DEC 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| JAN 15 | 6320 | JAN 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| FEB 15 | 6365 | FEB 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| MAR 15 | 6410 | MAR 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| APR 15 | 6455 | APR 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| MAY 15 | 6500 | MAY 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| JUN 15 | 6545 | JUN 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| JUL 15 | 6590 | JUL 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| AUG 15 | 6635 | AUG 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| SEP 15 | 6680 | SEP 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| OCT 15 | 6725 | OCT 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| NOV 15 | 6770 | NOV 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| DEC 15 | 6815 | DEC 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| JAN 15 | 6860 | JAN 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| FEB 15 | 6905 | FEB 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| MAR 15 | 6950 | MAR 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| APR 15 | 6995 | APR 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| MAY 15 | 7040 | MAY 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| JUN 15 | 7085 | JUN 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| JUL 15 | 7130 | JUL 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| AUG 15 | 7175 | AUG 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| SEP 15 | 7220 | SEP 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| OCT 15 | 7265 | OCT 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| NOV 15 | 7310 | NOV 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| DEC 15 | 7355 | DEC 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| JAN 15 | 7400 | JAN 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| FEB 15 | 7445 | FEB 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| MAR 15 | 7490 | MAR 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| APR 15 | 7535 | APR 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| MAY 15 | 7580 | MAY 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| JUN 15 | 7625 | JUN 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| JUL 15 | 7670 | JUL 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| AUG 15 | 7715 | AUG 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| SEP 15 | 7760 | SEP 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| OCT 15 | 7805 | OCT 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| NOV 15 | 7850 | NOV 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| DEC 15 | 7895 | DEC 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| JAN 15 | 7940 | JAN 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| FEB 15 | 7985 | FEB 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| MAR 15 | 8030 | MAR 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| APR 15 | 8075 | APR 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| MAY 15 | 8120 | MAY 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| JUN 15 | 8165 | JUN 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| JUL 15 | 8210 | JUL 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| AUG 15 | 8255 | AUG 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| SEP 15 | 8300 | SEP 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| OCT 15 | 8345 | OCT 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| NOV 15 | 8390 | NOV 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| DEC 15 | 8435 | DEC 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| JAN 15 | 8480 | JAN 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| FEB 15 | 8525 | FEB 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| MAR 15 | 8570 | MAR 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| APR 15 | 8615 | APR 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| MAY 15 | 8660 | MAY 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| JUN 15 | 8705 | JUN 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |
| JUL 15 | 8750 | JUL 1 | 15 | | 25000 | | | | | | | | 25000 | | | | | | | | |

[fol. 1259]

DEPARTMENTAL PAY ROLL RECORD

Person Investigator

UNIT Legal Aid

S. S. A/C No.

SECRET

[illegible]

DEPARTMENTAL PAY ROLL RECORD

NAME Title, No. &c.

POSITION Investigator

DEPT.

OFFICE

S. & A/C No.

| DATE PAID | NO. | PERIOD FROM TO | NAME OR SECTION | AMOUNTS | | DATE PAID | NO. | PERIOD FROM TO | NAME OR SECTION | AMOUNTS | | |
|------------|------|----------------|-----------------|---------|--------|-----------|------|----------------|-----------------|---------|--------|----|
| | | | | DEBIT | CREDIT | | | | | DEBIT | CREDIT | |
| JAN 15 '54 | 3874 | JAN 1 15 | | 20000 | | JAN 15 | 4701 | JAN 1 15 | | 20000 | | 1 |
| JAN 15 '54 | 3874 | JAN 15 31 | | 20000 | | JAN 31 | 4702 | JAN 15 31 | | 20000 | | 2 |
| FEB 15 '54 | 3932 | FEB 1 15 | | 20000 | | FEB 15 | 4703 | FEB 1 15 | | 20000 | | 3 |
| FEB 15 '54 | 3932 | FEB 16 28 | | 20000 | | FEB 28 | 4704 | FEB 15 28 | | 20000 | | 4 |
| MAR 15 '54 | 4003 | MAR 1 15 | | 20000 | | MAR 15 | 4705 | MAR 1 15 | | 20000 | | 5 |
| MAR 15 '54 | 4003 | MAR 15 31 | | 20000 | | MAR 31 | 4872 | MAR 15 31 | | 20000 | | 6 |
| APR 15 '54 | 4082 | APR 1 15 | | 20000 | | APR 15 | 4914 | APR 1 15 | | 20000 | | 7 |
| APR 15 '54 | 4082 | APR 15 30 | | 20000 | | APR 30 | 4946 | APR 15 30 | | 20000 | | 8 |
| MAY 15 '54 | 4158 | MAY 1 15 | | 20000 | | MAY 15 | 4988 | MAY 1 15 | | 20000 | | 9 |
| MAY 15 '54 | 4158 | MAY 15 31 | | 20000 | | MAY 31 | 5018 | MAY 15 30 | | 20000 | | 10 |
| JUN 15 '54 | 4213 | JUN 1 15 | | 20000 | | JUN 15 | 5052 | JUN 1 15 | | 20000 | | 11 |
| JUN 15 '54 | 4213 | JUN 15 30 | | 20000 | | JUN 30 | 5080 | JUN 15 30 | | 20000 | | 12 |
| JUL 15 '54 | 4274 | JUL 1 15 | | 20000 | | JUL 15 | 5180 | JUL 1 15 | | 20000 | | 13 |
| JUL 15 '54 | 4274 | JUL 15 31 | | 20000 | | JUL 31 | 5194 | JUL 15 31 | | 20000 | | 14 |
| AUG 15 '54 | 4335 | AUG 1 15 | | 20000 | | AUG 15 | 5163 | AUG 1 15 | | 20000 | | 15 |
| AUG 15 '54 | 4335 | AUG 16 31 | | 20000 | | AUG 31 | 5197 | AUG 15 31 | | 20000 | | 16 |
| SEP 15 '54 | 4580 | SEP 1 15 | | 20000 | | SEP 15 | 5217 | SEP 1 15 | | 20000 | | 17 |
| SEP 15 '54 | 4580 | SEP 15 30 | | 20000 | | SEP 30 | 5247 | SEP 15 30 | | 20000 | | 18 |
| OCT 15 '54 | 4638 | OCT 1 15 | | 20000 | | OCT 15 | 5274 | OCT 1 15 | | 20000 | | 19 |
| OCT 15 '54 | 4638 | OCT 15 31 | | 20000 | | OCT 30 | 5303 | OCT 15 31 | | 20000 | | 20 |
| NOV 15 '54 | 4638 | NOV 1 15 | | 20000 | | NOV 15 | 5337 | NOV 1 15 | | 20000 | | 21 |
| NOV 15 '54 | 4638 | NOV 15 30 | | 20000 | | NOV 30 | 5364 | NOV 15 30 | | 20000 | | 22 |
| DEC 15 '54 | 4638 | DEC 1 15 | | 20000 | | DEC 15 | 5396 | DEC 1 15 | | 20000 | | 23 |
| DEC 15 '54 | 4638 | DEC 15 31 | | 20000 | | DEC 30 | 5420 | DEC 15 31 | | 20000 | | 24 |

BROTHERHOOD OF RAILROAD TRAINERS

NAME Tingle, H. H.

POSITION Investigator

SECT Local 414

S. S. A. C. No.

| 1956 | | | | | 1957 | | | | |
|-----------|----------|--------|----|--------------|-------------------|----------|--------|----|--------------|
| DATE PAID | VOL. NO. | MEMBER | TO | END OF MONTH | DATE PAID | VOL. NO. | MEMBER | TO | END OF MONTH |
| JUN 15 | 5456 | JUN 1 | 15 | | JUN 15 | 6316 | JUN 1 | 15 | |
| JUN 31 | 5487 | JUN 16 | 31 | | JUN 31 | 636 | JUN 15 | 31 | |
| JUL 15 | 5514 | JUL 1 | 15 | | JUL 15 | 6400 | JUL 1 | 15 | |
| JUL 29 | 5541 | JUL 1 | 29 | | 28 6448 2-16 2-28 | | | | |
| AUG 1 | 5568 | AUG 1 | 15 | | AUG 15 | 6476 | AUG 1 | 15 | |
| AUG 15 | 5595 | AUG 1 | 15 | | AUG 31 | 6523 | AUG 15 | 31 | |
| SEP 1 | 5622 | SEP 1 | 15 | | SEP 15 | 6570 | SEP 1 | 15 | |
| SEP 15 | 5649 | SEP 1 | 15 | | SEP 31 | 6617 | SEP 1 | 15 | |
| OCT 1 | 5676 | OCT 1 | 15 | | OCT 15 | 6664 | OCT 1 | 15 | |
| OCT 15 | 5703 | OCT 1 | 15 | | OCT 31 | 6711 | OCT 1 | 15 | |
| NOV 1 | 5730 | NOV 1 | 15 | | NOV 15 | 6758 | NOV 1 | 15 | |
| NOV 31 | 5757 | NOV 16 | 31 | | NOV 31 | 6805 | NOV 16 | 31 | |
| DEC 1 | 5784 | DEC 1 | 15 | | DEC 15 | 6852 | DEC 1 | 15 | |
| DEC 31 | 5811 | DEC 15 | 31 | | DEC 31 | 6899 | DEC 1 | 15 | |
| JAN 1 | 5838 | JAN 1 | 15 | | JAN 15 | 6946 | JAN 15 | 31 | |
| JAN 31 | 5865 | JAN 1 | 15 | | JAN 31 | 6993 | JAN 15 | 31 | |
| FEB 1 | 5892 | FEB 1 | 15 | | FEB 15 | 7040 | FEB 1 | 15 | |
| FEB 15 | 5919 | FEB 1 | 15 | | FEB 31 | 7087 | FEB 1 | 15 | |
| MAR 1 | 5946 | MAR 1 | 15 | | MAR 15 | 7134 | MAR 1 | 15 | |
| MAR 15 | 5973 | MAR 1 | 15 | | MAR 31 | 7181 | MAR 1 | 15 | |
| APR 1 | 6000 | APR 1 | 15 | | APR 15 | 7228 | APR 1 | 15 | |
| APR 15 | 6027 | APR 1 | 15 | | APR 31 | 7275 | APR 1 | 15 | |
| MAY 1 | 6054 | MAY 1 | 15 | | MAY 15 | 7322 | MAY 1 | 15 | |
| MAY 15 | 6081 | MAY 1 | 15 | | MAY 31 | 7369 | MAY 1 | 15 | |
| JUN 1 | 6108 | JUN 1 | 15 | | JUN 15 | 7416 | JUN 1 | 15 | |
| JUN 15 | 6135 | JUN 1 | 15 | | JUN 31 | 7463 | JUN 1 | 15 | |
| JUL 1 | 6162 | JUL 1 | 15 | | JUL 15 | 7510 | JUL 1 | 15 | |
| JUL 15 | 6189 | JUL 1 | 15 | | JUL 31 | 7557 | JUL 1 | 15 | |
| AUG 1 | 6216 | AUG 1 | 15 | | AUG 15 | 7604 | AUG 1 | 15 | |
| AUG 15 | 6243 | AUG 1 | 15 | | AUG 31 | 7651 | AUG 1 | 15 | |
| SEP 1 | 6270 | SEP 1 | 15 | | SEP 15 | 7698 | SEP 1 | 15 | |
| SEP 15 | 6297 | SEP 1 | 15 | | SEP 31 | 7745 | SEP 1 | 15 | |
| OCT 1 | 6324 | OCT 1 | 15 | | OCT 15 | 7792 | OCT 1 | 15 | |
| OCT 15 | 6351 | OCT 1 | 15 | | OCT 31 | 7839 | OCT 1 | 15 | |
| NOV 1 | 6378 | NOV 1 | 15 | | NOV 15 | 7886 | NOV 1 | 15 | |
| NOV 15 | 6405 | NOV 1 | 15 | | NOV 31 | 7933 | NOV 1 | 15 | |
| DEC 1 | 6432 | DEC 1 | 15 | | DEC 15 | 7980 | DEC 1 | 15 | |
| DEC 15 | 6459 | DEC 1 | 15 | | DEC 31 | 8027 | DEC 1 | 15 | |
| JAN 1 | 6486 | JAN 1 | 15 | | JAN 15 | 8074 | JAN 1 | 15 | |
| JAN 15 | 6513 | JAN 1 | 15 | | JAN 31 | 8121 | JAN 1 | 15 | |
| FEB 1 | 6540 | FEB 1 | 15 | | FEB 15 | 8168 | FEB 1 | 15 | |
| FEB 15 | 6567 | FEB 1 | 15 | | FEB 31 | 8215 | FEB 1 | 15 | |
| MAR 1 | 6594 | MAR 1 | 15 | | MAR 15 | 8262 | MAR 1 | 15 | |
| MAR 15 | 6621 | MAR 1 | 15 | | MAR 31 | 8309 | MAR 1 | 15 | |
| APR 1 | 6648 | APR 1 | 15 | | APR 15 | 8356 | APR 1 | 15 | |
| APR 15 | 6675 | APR 1 | 15 | | APR 31 | 8403 | APR 1 | 15 | |
| MAY 1 | 6702 | MAY 1 | 15 | | MAY 15 | 8450 | MAY 1 | 15 | |
| MAY 15 | 6729 | MAY 1 | 15 | | MAY 31 | 8497 | MAY 1 | 15 | |
| JUN 1 | 6756 | JUN 1 | 15 | | JUN 15 | 8544 | JUN 1 | 15 | |
| JUN 15 | 6783 | JUN 1 | 15 | | JUN 31 | 8591 | JUN 1 | 15 | |
| JUL 1 | 6810 | JUL 1 | 15 | | JUL 15 | 8638 | JUL 1 | 15 | |
| JUL 15 | 6837 | JUL 1 | 15 | | JUL 31 | 8685 | JUL 1 | 15 | |
| AUG 1 | 6864 | AUG 1 | 15 | | AUG 15 | 8732 | AUG 1 | 15 | |
| AUG 15 | 6891 | AUG 1 | 15 | | AUG 31 | 8779 | AUG 1 | 15 | |
| SEP 1 | 6918 | SEP 1 | 15 | | SEP 15 | 8826 | SEP 1 | 15 | |
| SEP 15 | 6945 | SEP 1 | 15 | | SEP 31 | 8873 | SEP 1 | 15 | |
| OCT 1 | 6972 | OCT 1 | 15 | | OCT 15 | 8920 | OCT 1 | 15 | |
| OCT 15 | 6999 | OCT 1 | 15 | | OCT 31 | 8967 | OCT 1 | 15 | |
| NOV 1 | 7026 | NOV 1 | 15 | | NOV 15 | 9014 | NOV 1 | 15 | |
| NOV 15 | 7053 | NOV 1 | 15 | | NOV 31 | 9061 | NOV 1 | 15 | |
| DEC 1 | 7080 | DEC 1 | 15 | | DEC 15 | 9108 | DEC 1 | 15 | |
| DEC 15 | 7107 | DEC 1 | 15 | | DEC 31 | 9155 | DEC 1 | 15 | |
| JAN 1 | 7134 | JAN 1 | 15 | | JAN 15 | 9202 | JAN 1 | 15 | |
| JAN 15 | 7161 | JAN 1 | 15 | | JAN 31 | 9249 | JAN 1 | 15 | |
| FEB 1 | 7188 | FEB 1 | 15 | | FEB 15 | 9296 | FEB 1 | 15 | |
| FEB 15 | 7215 | FEB 1 | 15 | | FEB 31 | 9343 | FEB 1 | 15 | |
| MAR 1 | 7242 | MAR 1 | 15 | | MAR 15 | 9390 | MAR 1 | 15 | |
| MAR 15 | 7269 | MAR 1 | 15 | | MAR 31 | 9437 | MAR 1 | 15 | |
| APR 1 | 7296 | APR 1 | 15 | | APR 15 | 9484 | APR 1 | 15 | |
| APR 15 | 7323 | APR 1 | 15 | | APR 31 | 9531 | APR 1 | 15 | |
| MAY 1 | 7350 | MAY 1 | 15 | | MAY 15 | 9578 | MAY 1 | 15 | |
| MAY 15 | 7377 | MAY 1 | 15 | | MAY 31 | 9625 | MAY 1 | 15 | |
| JUN 1 | 7404 | JUN 1 | 15 | | JUN 15 | 9672 | JUN 1 | 15 | |
| JUN 15 | 7431 | JUN 1 | 15 | | JUN 31 | 9719 | JUN 1 | 15 | |
| JUL 1 | 7458 | JUL 1 | 15 | | JUL 15 | 9766 | JUL 1 | 15 | |
| JUL 15 | 7485 | JUL 1 | 15 | | JUL 31 | 9813 | JUL 1 | 15 | |
| AUG 1 | 7512 | AUG 1 | 15 | | AUG 15 | 9860 | AUG 1 | 15 | |
| AUG 15 | 7539 | AUG 1 | 15 | | AUG 31 | 9907 | AUG 1 | 15 | |
| SEP 1 | 7566 | SEP 1 | 15 | | SEP 15 | 9954 | SEP 1 | 15 | |
| SEP 15 | 7593 | SEP 1 | 15 | | SEP 31 | 10001 | SEP 1 | 15 | |
| OCT 1 | 7620 | OCT 1 | 15 | | OCT 15 | 10048 | OCT 1 | 15 | |
| OCT 15 | 7647 | OCT 1 | 15 | | OCT 31 | 10095 | OCT 1 | 15 | |
| NOV 1 | 7674 | NOV 1 | 15 | | NOV 15 | 10142 | NOV 1 | 15 | |
| NOV 15 | 7701 | NOV 1 | 15 | | NOV 31 | 10189 | NOV 1 | 15 | |
| DEC 1 | 7728 | DEC 1 | 15 | | DEC 15 | 10236 | DEC 1 | 15 | |
| DEC 15 | 7755 | DEC 1 | 15 | | DEC 31 | 10283 | DEC 1 | 15 | |
| JAN 1 | 7782 | JAN 1 | 15 | | JAN 15 | 10330 | JAN 1 | 15 | |
| JAN 15 | 7809 | JAN 1 | 15 | | JAN 31 | 10377 | JAN 1 | 15 | |
| FEB 1 | 7836 | FEB 1 | 15 | | FEB 15 | 10424 | FEB 1 | 15 | |
| FEB 15 | 7863 | FEB 1 | 15 | | FEB 31 | 10471 | FEB 1 | 15 | |
| MAR 1 | 7890 | MAR 1 | 15 | | MAR 15 | 10518 | MAR 1 | 15 | |
| MAR 15 | 7917 | MAR 1 | 15 | | MAR 31 | 10565 | MAR 1 | 15 | |
| APR 1 | 7944 | APR 1 | 15 | | APR 15 | 10612 | APR 1 | 15 | |
| APR 15 | 7971 | APR 1 | 15 | | APR 31 | 10659 | APR 1 | 15 | |
| MAY 1 | 7998 | MAY 1 | 15 | | MAY 15 | 10706 | MAY 1 | 15 | |
| MAY 15 | 8025 | MAY 1 | 15 | | MAY 31 | 10753 | MAY 1 | 15 | |
| JUN 1 | 8052 | JUN 1 | 15 | | JUN 15 | 10800 | JUN 1 | 15 | |
| JUN 15 | 8079 | JUN 1 | 15 | | JUN 31 | 10847 | JUN 1 | 15 | |
| JUL 1 | 8106 | JUL 1 | 15 | | JUL 15 | 10894 | JUL 1 | 15 | |
| JUL 15 | 8133 | JUL 1 | 15 | | JUL 31 | 10941 | JUL 1 | 15 | |

DEPARTMENTAL PAY ROLL RECORD

NAME: [illegible]

POSITION: [illegible]

DEPT: Legal Aid

S.S.A/C No.

| DATE | NO. | NAME | TO | AMOUNTS | DATE | NO. | NAME | TO | AMOUNTS |
|---------|------|--------|----|---------|--------|------|--------|----|---------|
| | | | | | | | | | |
| 4. 1958 | | | | | 1959 | | | | |
| JAN 15 | 7092 | JAN 1 | 15 | 17500 | JAN 15 | 8319 | JAN 1 | 15 | 17500 |
| JAN 31 | 7327 | JAN 16 | 31 | 17500 | JAN 30 | 8345 | JAN 16 | 31 | 17500 |
| FEB 15 | 7373 | FEB 1 | 15 | 17500 | FEB 15 | 8395 | FEB 1 | 15 | 17500 |
| FEB 29 | 7442 | FEB 16 | 29 | 17500 | FEB 27 | 8437 | FEB 16 | 28 | 17500 |
| MAR 14 | 7557 | MAR 1 | 15 | 17500 | MAR 13 | 8487 | MAR 1 | 15 | 17500 |
| MAR 31 | 7911 | MAR 16 | 31 | 17500 | MAR 31 | 8520 | MAR 16 | 31 | 17500 |
| APR 15 | 7924 | APR 1 | 15 | 17500 | APR 15 | 8542 | APR 1 | 15 | 17500 |
| APR 30 | 7999 | APR 16 | 30 | 17500 | APR 30 | 8602 | APR 16 | 30 | 17500 |
| MAY 15 | | MAY 1 | 15 | 17500 | MAY 15 | 8606 | MAY 1 | 15 | 17500 |
| MAY 31 | | MAY 16 | 31 | 17500 | MAY 29 | 8622 | MAY 16 | 31 | 17500 |
| JUN 15 | 7973 | JUN 1 | 15 | 17500 | JUN 15 | 8706 | JUN 1 | 15 | 17500 |
| JUN 30 | | JUN 16 | 30 | 17500 | JUN 30 | 8762 | JUN 16 | 30 | 17500 |
| JUL 15 | 7899 | JUL 1 | 15 | 17500 | JUL 15 | 8803 | JUL 1 | 15 | 17500 |
| JUL 31 | 7847 | JUL 16 | 31 | 17500 | JUL 31 | 8841 | JUL 16 | 31 | 17500 |
| AUG 15 | 7900 | AUG 1 | 15 | 17500 | AUG 14 | 8887 | AUG 1 | 14 | 17500 |
| AUG 31 | 7944 | AUG 16 | 31 | 17500 | AUG 31 | 8934 | AUG 16 | 31 | 17500 |
| SEP 15 | 7943 | SEP 1 | 15 | 17500 | SEP 15 | 8962 | SEP 1 | 15 | 17500 |
| SEP 30 | 8058 | SEP 16 | 30 | 17500 | SEP 30 | 8999 | SEP 16 | 30 | 17500 |
| OCT 15 | 8038 | OCT 1 | 15 | 17500 | OCT 15 | 9056 | OCT 1 | 15 | 17500 |
| OCT 31 | 8100 | OCT 16 | 31 | 17500 | OCT 30 | 9088 | OCT 16 | 30 | 17500 |
| NOV 15 | 8121 | NOV 1 | 15 | 17500 | NOV 15 | 9106 | NOV 1 | 15 | 17500 |
| NOV 30 | 8103 | NOV 16 | 30 | 17500 | NOV 30 | 9171 | NOV 16 | 30 | 17500 |
| DEC 15 | 8212 | DEC 1 | 15 | 17500 | DEC 15 | 9202 | DEC 1 | 15 | 17500 |
| DEC 31 | 8276 | DEC 16 | 31 | 17500 | DEC 31 | 9214 | DEC 16 | 31 | 17500 |
| | | | | 420000 | | | | | |
| | | | | | | | | | 4 55000 |

BROTHERHOOD OF RAILROAD TRANSMEN

NAME Tingle, N. W.

POSITION Investigator

DEPT. Legal Aid

L. & A/C No.

| DATE PAID | NO. | PERIOD | | TIME ON SECTION | AMOUNTS | | DATE PAID | NO. | PERIOD | | TIME ON SECTION | AMOUNTS | |
|-----------|--------|--------|----|-----------------|---------|--------|-----------|-----|--------|----|-----------------|---------|--------|
| | | FROM | TO | | DEBIT | CREDIT | | | FROM | TO | | DEBIT | CREDIT |
| 1 | 97 | | | | | | | | | | | | |
| 2 | FEB 22 | 97 | 25 | 29 | 11724 | | | | | | | | |
| 3 | MAR 15 | 95 | 57 | 19 | 20000 | | | | | | | | |
| 4 | MAR 31 | 90 | 20 | 11 | 14839 | | | | | | | | |
| 5 | APR 15 | 96 | 31 | 19 | 20000 | | | | | | | | |
| 6 | APR 24 | 97 | 28 | 29 | 20000 | | | | | | | | |
| 7 | | | | | 16563 | | | | | | | | |
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[1265]

DEPARTMENTAL PAY ROLL RECORD

NAME

Verbon, M. M.

POSITION



DEPT

La

S. E. A/C No.

| | DATE PAID | VO. NO. | PERIOD | | FUND OR SECTION | AMOUNTS | | DATE PAID | VO. NO. | PERIOD | | FUND OR SECTION | AMOUNTS | | |
|----|-----------|---------|--------|----|-----------------|---------|---------|-------------|---------|--------|----|-----------------|---------|---------|----|
| | | | FROM | TO | | DEBITS | CREDITS | | | FROM | TO | | DEBITS | CREDITS | |
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| 3 | | | | | | | | DEC 30 | 5420 | DEC 16 | 31 | | 55000 | | 3 |
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1265

BROTHERHOOD OF RAILROAD TRAINMEN

NAME M. M. Verbon

POSITION *Investigator*

DEPT La

B. B. A/C No.

[illegible]

[fol. 1267]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA

PLAINTIFF'S CHASE EXHIBIT "K"—1950

SCHEDULE NO. 22

LEGAL AID BUREAU
BROTHERHOOD OF RAILROAD TRAINMEN

Year ended December 31, 1950

INCOME

Recoveries and refunds on per-
sonal injury damage claims

\$ 73,930.2

EXPENSES

| | | |
|--------------------|--------------|--------------|
| Salaries | \$113,837.84 | |
| Less refunds | 2,693.93 | \$111,143.91 |

| | | |
|--|--|-----------|
| Convention expenses—Schedule No. 20 | | 26,571.16 |
|--|--|-----------|

| | | |
|----------------------|-------------|----------|
| Pay roll taxes | \$ 5,324.14 | |
| Less refunds | 30.35 | 5,293.79 |

| | | |
|--------------------------|-------------|----------|
| Traveling expenses | \$ 3,138.88 | |
| Less refunds | 17.94 | 3,120.94 |

| | | |
|------------------------------------|--|----------|
| Rent | | 2,182.80 |
| Office supplies and expenses | | 1,206.51 |
| Postage | | 980.95 |

| | | |
|--|--|--------|
| Portion of Tax Department expense | | 503.97 |
|--|--|--------|

| | | |
|-------------------------------|--|--------|
| Telephone and telegraph | | 224.14 |
|-------------------------------|--|--------|

| | | |
|-----------------------|--|-------|
| Light and power | | 72.30 |
|-----------------------|--|-------|

| | | |
|---------------|--|-------|
| Repairs | | 48.24 |
|---------------|--|-------|

| | | |
|---------------------|--|-------|
| Towel service | | 37.71 |
|---------------------|--|-------|

| | | |
|----------------------------|--|-------|
| Annual audit expense | | 20.00 |
|----------------------------|--|-------|

151,406.4

NET EXPENSE

\$ 77,476.1

RECONCILEMENT

| | |
|---|--------------|
| Cash disbursements—Schedule No. 21 | \$154,148.64 |
|---|--------------|

| | |
|-------------------------------------|-----------|
| Cash receipts—Schedule No. 21 | 76,672.47 |
|-------------------------------------|-----------|

NET EXPENSE

\$ 77,476.17

[fol. 1268]

PLAINTIFF'S CHASE EXHIBIT "K"—1951

SCHEDULE NO. 22

LEGAL AID DEPARTMENT
BROTHERHOOD OF RAILROAD TRAINMEN

Year ended December 31, 1951

INCOME

Recoveries and refunds on personal injury damage claims

\$154,604.02

EXPENSES

| | | |
|--|--------------|--------------|
| Salaries | \$118,710.98 | |
| Less refunds | 363.91 | \$118,347.07 |
| | <hr/> | |
| Pay roll taxes | \$ 5,645.65 | |
| Less refunds | 10.88 | 5,634.77 |
| | <hr/> | |
| Legal expenses | | 3,842.89 |
| Traveling expenses | | 3,164.50 |
| Rent | | 2,178.03 |
| Postage | | 987.38 |
| Office supplies and expenses ... | | 805.79 |
| Portion of Tax Department expense | | 502.12 |
| Furniture and fixtures—Schedule No. 31 | | 314.31 |
| Telephone and telegraph | | 257.42 |
| Light and power | | 70.21 |
| Travel service | | 35.78 |
| Annual audit expense | | 20.00 |
| Repairs | | 15.75 |
| | | <hr/> |
| | | 136,176.02 |
| | | <hr/> |
| NET INCOME | | \$ 18,428.00 |
| | | <hr/> |

RECONCILEMENT

| | |
|--|--------------|
| Cash receipts—Schedule No. 21 | \$154,978.81 |
| Cash disbursements—Schedule No. 21 | 136,550.81 |
| | <hr/> |
| NET INCOME | \$ 18,428.00 |
| | <hr/> |

[fol. 1269]

PLAINTIFF'S CHASE EXHIBIT "K"—1952

SCHEDULE NO. 22

LEGAL AID DEPARTMENT
BROTHERHOOD OF RAILROAD TRAINMEN

Year ended December 31, 1952

INCOME

Recoveries and refunds on personal injury damage claims

\$142,658.69

EXPENSES

| | | |
|--------------------|--------------|--------------|
| Salaries | \$131,579.99 | |
| Less refunds | 475.90 | \$131,104.09 |

| | | |
|----------------------|-------------|----------|
| Pay roll taxes | \$ 5,743.26 | |
| Less refunds | 7.95 | 5,735.31 |

| | |
|--------------------------|----------|
| Traveling expenses | 4,886.26 |
|--------------------------|----------|

| | |
|------------|----------|
| Rent | 2,422.42 |
|------------|----------|

| | |
|----------------------|----------|
| Legal expenses | 1,170.71 |
|----------------------|----------|

| | |
|---------------|--------|
| Postage | 989.45 |
|---------------|--------|

| | |
|-----------------------------------|--------|
| Office supplies and expenses | 972.70 |
|-----------------------------------|--------|

| | |
|---|--------|
| Portion of tax department expense | 627.54 |
|---|--------|

| | |
|-------------------------------|--------|
| Telephone and telegraph | 231.18 |
|-------------------------------|--------|

| | |
|-----------------------|-------|
| Light and power | 78.60 |
|-----------------------|-------|

| | |
|---------------|-------|
| Repairs | 51.87 |
|---------------|-------|

| | |
|---------------------|-------|
| Towel service | 42.36 |
|---------------------|-------|

| | |
|--|-------|
| Furniture and fixtures—Schedule No. 31 | 34.34 |
|--|-------|

| | |
|----------------------------|-------|
| Annual audit expense | 20.00 |
|----------------------------|-------|

| | |
|---------------------------------|-------|
| Freight, express and drayage .. | 12.67 |
|---------------------------------|-------|

148,379.50

DISBURSEMENTS IN EXCESS
OF INCOME

\$ 5,720.81

RECONCILEMENT

| | |
|--|--------------|
| Cash disbursements—Schedule No. 21 | \$148,863.35 |
|--|--------------|

| | |
|-------------------------------------|------------|
| Cash receipts—Schedule No. 21 | 143,142.54 |
|-------------------------------------|------------|

| |
|-------------|
| \$ 5,720.81 |
|-------------|

[fol. 1270]

PLAINTIFF'S CHASE EXHIBIT "K"—1953

SCHEDULE NO. 24

LEGAL AID DEPARTMENT
BROTHERHOOD OF RAILROAD TRAINMEN

Year ended December 31, 1953

INCOME

Recoveries and refunds on personal injury damage claims

\$187,577.35

EXPENSES

| | | |
|--|--------------|---------------------|
| Salaries | \$142,390.14 | |
| Less refunds | 814.48 | \$141,575.66 |
| Payroll taxes | \$ 6,377.85 | |
| Less refunds | 14.47 | 6,363.38 |
| Traveling expense | \$ 5,213.83 | |
| Less refunds | 94.33 | 5,119.50 |
| Rent | | 2,508.12 |
| Office supplies and expenses | | 2,060.96 |
| Postage | | 1,211.28 |
| Portion of Tax Department expense | | 623.27 |
| Furniture and fixtures—Schedule No. 33 | | 311.27 |
| Telephone and telegraph | | 245.39 |
| Light and power | | 103.43 |
| Repairs | | 49.52 |
| Towel service | | 46.34 |
| Annual audit expense | | 20.00 |
| | | <u>160,238.12</u> |
| INCOME IN EXCESS OF DISBURSEMENTS | | <u>\$ 27,339.23</u> |

RECONCILEMENT

| | |
|--|---------------------|
| Cash receipts—Schedule No. 21 | \$188,500.63 |
| Cash disbursements—Schedule No. 21 | 161,161.40 |
| | <u>\$ 27,339.23</u> |

PLAINTIFF'S CHASE EXHIBIT "K"—1954

SCHEDULE NO. 24

LEGAL AID DEPARTMENT
BROTHERHOOD OF RAILROAD TRAINMEN
Year ended December 31, 1954

INCOME

Recoveries and refunds on personal injury damage claims

\$116,474.58

EXPENSES

| | | |
|--------------------|--------------|--------------|
| Salaries | \$141,249.35 | |
| Less refunds | 656.41 | \$140,592.94 |

| | | |
|---------------------|-------------|----------|
| Payroll taxes | \$ 6,684.58 | |
| Less refunds | 25.74 | 6,658.84 |

| | | |
|-------------------------|-------------|----------|
| Rent | | 2,555.36 |
| Traveling expense | \$ 1,656.59 | |
| Less refunds | 77.44 | 1,579.15 |

| | | |
|---------------|--|----------|
| Postage | | 1,205.08 |
|---------------|--|----------|

| | | |
|-----------------------------------|--|--------|
| Office supplies and expense | | 706.21 |
|-----------------------------------|--|--------|

| | | |
|---|--|--------|
| Portion of Tax Department expense | | 599.10 |
|---|--|--------|

| | | |
|-------------------------------|--|--------|
| Telephone and telegraph | | 384.11 |
|-------------------------------|--|--------|

| | | |
|---------------------|--|--------|
| Legal expense | | 200.00 |
|---------------------|--|--------|

| | | |
|-----------------------|--|--------|
| Light and power | | 112.18 |
|-----------------------|--|--------|

| | | |
|--|--|--------|
| Furniture and fixtures—Schedule No. 34 | | 102.08 |
|--|--|--------|

| | | |
|---------------------|--|-------|
| Towel service | | 44.06 |
|---------------------|--|-------|

| | | |
|---------------|--|-------|
| Repairs | | 27.50 |
|---------------|--|-------|

| | | | |
|----------------------------|--|-------|------------|
| Annual audit expense | | 20.00 | 154,786.61 |
|----------------------------|--|-------|------------|

DISBURSEMENTS IN EXCESS
OF INCOME

\$ 38,312.03

RECONCILEMENT

| | |
|--|--------------|
| Cash disbursements—Schedule No. 20 | \$155,546.20 |
|--|--------------|

| | |
|-------------------------------------|------------|
| Cash receipts—Schedule No. 20 | 117,234.17 |
|-------------------------------------|------------|

| | |
|-------------------|--------------|
| NET EXPENSE | \$ 38,312.03 |
|-------------------|--------------|

[fol. 1272]

PLAINTIFF'S CHASE EXHIBIT "K"—1955

SCHEDULE NO. 24

LEGAL AID DEPARTMENT
BROTHERHOOD OF RAILROAD TRAINMEN

Year ended December 31, 1955

INCOME

Recoveries and refunds on personal injury damage claims

\$208,034.99

EXPENSES

| | | |
|--|--------------|---------------------|
| Salaries | \$164,960.24 | |
| Less refunds | 1,352.40 | \$163,607.84 |
| Payroll taxes | \$ 7,868.53 | |
| Less refunds | 38.78 | 7,829.75 |
| Rent | | 2,652.69 |
| Traveling expense | \$ 1,638.47 | |
| Less refunds | 5.00 | 1,633.47 |
| Portion of Stenographic Department expense | | 1,597.02 |
| Office supplies and expense | | 1,299.50 |
| Legal expense | | 750.00 |
| Postage | | 716.54 |
| Portion of Tax Department expense | | 681.69 |
| Telephone and telegraph | | 198.65 |
| Light and power | | 116.65 |
| Repairs | | 43.75 |
| Towel service | | 40.17 |
| Furniture and fixtures—Schedule No. 34 | | 36.05 |
| Annual audit expense | | 20.00 |
| NET INCOME | | <u>\$ 26,811.22</u> |

RECONCILEMENT

| | |
|------------------------------------|---------------------|
| Cash receipts—Schedule No. 20 | \$209,431.17 |
| Cash disbursements—Schedule No. 20 | 182,619.95 |
| NET INCOME | <u>\$ 26,811.22</u> |

1316

[fol. 1273]

PLAINTIFF'S CHASE EXHIBIT "K"—1956

SCHEDULE NO. 24

LEGAL AID DEPARTMENT
BROTHERHOOD OF RAILROAD TRAINMEN

Year ended December 31, 1956

INCOME

Recoveries and refunds on personal injury damage claims

\$202,840.03

EXPENSES

Salaries

\$172,472.32

Less refunds

101.61

\$172,370.71

Payroll taxes

9,201.73

Rent

2,695.56

Traveling expense

1,989.64

Office supplies and expense

1,300.64

Legal expense

1,000.00

Portion of Tax Department expense

795.06

Postage

754.25

Portion of Stenographic Department expense

396.77

Telephone and telegraph

215.24

Light and power

131.61

Towel service

38.93

Repairs

35.00

Annual audit expense

25.00

190,950.14

NET INCOME

\$ 11,889.89

RECONCILEMENT

Cash receipts—Schedule No. 20

\$202,941.64

Cash disbursements—

Schedule No. 20

191,051.75

NET INCOME

\$ 11,889.89

[Vol. 1274]

PLAINTIFF'S CHASE EXHIBIT "K"—1957

SCHEDULE NO. 24

LEGAL AID DEPARTMENT
BROTHERHOOD OF RAILROAD TRAINMEN

Year ended December 31, 1957

INCOME

Recoveries and refunds on personal injury damage claims

\$203,423.28

EXPENSES

| | | |
|--|--------------|--------------------|
| Salaries | \$185,325.04 | |
| Less refunds | 463.84 | \$184,861.20 |
| Payroll taxes | | 10,338.91 |
| Legal expenses | | 4,805.22 |
| Rent | | 2,695.56 |
| Traveling expense | | 1,988.89 |
| Office supplies and expense | | 960.21 |
| Portion of Tax Department expense | | 936.06 |
| Postage | | 545.90 |
| Furniture and fixtures—Schedule No. 34 | | 221.66 |
| Telephone and telegraph | | 212.99 |
| Light and power | | 130.31 |
| Towel service | | 34.91 |
| Repairs | | 32.90 |
| Annual audit | | 25.00 |
| Portion of Stenographic Department expense | | 11.57 |
| Surety bonds and insurance—Schedule No. 35 | | 6.40 |
| NET EXPENSE | | <u>\$ 4,384.41</u> |

RECONCILEMENT

| | |
|------------------------------------|--------------------|
| Cash receipts—Schedule No. 21 | \$203,896.53 |
| Cash disbursements—Schedule No. 21 | <u>208,280.94</u> |
| NET EXPENSE | <u>\$ 4,384.41</u> |

1318

[fol. 1275]

PLAINTIFF'S CHASE EXHIBIT "K"—1958

SCHEDULE NO. 24
LEGAL AID DEPARTMENT
BROTHERHOOD OF RAILROAD TRAINMEN

Year ended December 31, 1958

INCOME

Recoveries and refunds on personal injury damage claims

\$157,002.27

EXPENSES

| | | | |
|---|-----------|--------------|---------------------|
| Salaries | | \$175,845.84 | |
| Legal expenses | | 11,886.01 | |
| Payroll taxes | | 10,363.69 | |
| Rent | | 2,695.56 | |
| Traveling expense | | 2,030.65 | |
| Portion of Tax Department expense | | 900.47 | |
| Postage | | 689.03 | |
| Office supplies and expense | | 630.70 | |
| Furniture and fixtures | \$ 574.50 | | |
| Less refunds | 2.00 | 572.50 | |
| Telephone and telegraph | | 457.42 | |
| Light, heat, and power | | 139.37 | |
| Rent and maintenance of leased property | | 85.64 | |
| Surety bonds and insurance | \$ 88.87 | | |
| Less refunds | 11.72 | 77.15 | |
| Repairs | | 75.35 | |
| Towel service | | 37.88 | |
| Annual audit | | 25.00 | |
| Freight, express, and drayage | | 8.65 | 206,520.91 |
| NET EXPENSE | | | \$ 49,518.64 |

RECONCILEMENT

| | | |
|------------------------------------|--|---------------------|
| Cash disbursements—Schedule No. 21 | | \$206,534.63 |
| Cash receipts—Schedule No. 21 | | 157,015.99 |
| NET EXPENSE | | \$ 49,518.64 |

[fol. 1276]

PLAINTIFF'S CHASE EXHIBIT "K"—1959

SCHEDULE NO. 24

LEGAL AID DEPARTMENT
BROTHERHOOD OF RAILROAD TRAINMEN

Year ended December 31, 1959

INCOME

Recoveries and refunds on personal injury damage claims

\$158,080.06

EXPENSES

| | | |
|--|-----------------|--------------------|
| Salaries | \$126,980.73 | |
| Less refunds | <u>1,187.50</u> | \$125,793.23 |
| Traveling expense | | 16,335.73 |
| Payroll taxes | | 9,809.06 |
| Legal expense | \$ 9,246.39 | |
| Less refunds | <u>304.20</u> | 8,942.19 |
| Rent | | 2,754.96 |
| Office supplies and expense | | 882.49 |
| Postage | | 775.42 |
| Portion of Tax Department expense | | 772.92 |
| Telephone and telegraph | | 358.95 |
| Light and power | | 143.89 |
| Repairs | | 78.35 |
| Towel service | | 37.01 |
| Annual audit | | 25.00 |
| Rent and maintenance of leased equipment | | 21.88 |
| Freight, express, and drayage | | 9.08 |
| Surety bonds and insurance | | <u>.66</u> |
| NET EXPENSE | | <u>\$ 8,660.76</u> |

RECONCILEMENT

Cash disbursements—

Schedule No. 21

\$168,232.52

Cash receipts—Schedule No. 21

159,571.76

NET EXPENSE

\$ 8,660.76

[fol. 1277]

PLAINTIFF'S CHASE EXHIBIT "K"—1960

SCHEDULE NO. 25

DEPARTMENT OF LEGAL COUNSEL
BROTHERHOOD OF RAILROAD TRAINMEN

Year ended December 31, 1960

EXPENSES

| | | |
|--|-------------|-------------|
| Salaries | \$51,496.69 | |
| Less refunds | 333.42 | \$51,163.27 |
| | | <hr/> |
| Legal expense | | 23,569.24 |
| Payroll taxes | | 6,084.30 |
| Traveling expense | | 3,633.24 |
| Rent | | 2,774.76 |
| Postage | | 940.03 |
| Office supplies and expense | | 890.82 |
| Telephone and telegraph | | 609.13 |
| Portion of Tax Department expenses | | 301.19 |
| Light and power | | 151.78 |
| Repairs | | 63.40 |
| Towel service | | 38.01 |
| Surety bonds and insurance | | 31.23 |
| Annual audit | | 25.00 |
| Rent and maintenance of leased equipment | | 21.88 |
| | | <hr/> |
| Less recoveries and refunds | | 23.41 |
| | | <hr/> |
| NET EXPENSE | | \$66.88 |
| | | <hr/> |
| RECONCILEMENT | | |
| Cash disbursements— | | \$90.63 |
| Schedule No. 22 | | 23.74 |
| Cash receipts—Schedule No. 22 | | |
| | | <hr/> |
| NET EXPENSE | | \$66.88 |
| | | <hr/> |

PLAINTIFF'S CHASE EXHIBIT "L"

Operations of Legal Aid Department

BROTHERHOOD OF RAILROAD TRAINMEN—Cleveland, Ohio

(Name of Department changed to "Department of Legal Counsel" effective January 1, 1959)

| | YEAR 1954 | | YEAR 1955 | |
|---|--------------|--------------|--------------|--------------|
| Balance—Jan. 1st | \$ 73,360.49 | | \$ 35,048.46 | |
| Receipts | | | | |
| Refund from Regional Counsel (for Investigators and Office Expense) | 116,474.58 | | 208,034.99 | |
| | \$189,835.07 | | \$243,083.45 | |
| Less—Expenses (Net) | | | | |
| Investigators | | | | |
| Salaries | \$105,797.36 | | \$129,682.50 | |
| Payroll Taxes | 4,994.13 | \$110,791.49 | 6,185.50 | \$135,868.00 |
| Office | | | | |
| Salaries | \$ 34,795.58 | | \$ 33,925.34 | |
| Payroll Taxes | 1,664.71 | | 1,644.25 | |
| Expense | 7,534.83 | 43,995.12 | 9,786.18 | 45,355.77 |
| Total Expenses (Net) | 154,786.61 | | 181,223.77 | |
| Balance—December 31st | \$ 35,048.46 | | \$ 61,859.68 | |

[fol. 1279]

1322

*Operations of Legal Aid Department***BROTHERHOOD OF RAILROAD TRAINMEN—Cleveland, Ohio**

(Name of Department changed to "Department of Legal Counsel" effective January 1, 1959)

| | YEAR 1956 | | YEAR 1957 | |
|---|--------------|---------------------|--------------|---------------------|
| <i>Balance—Jan. 1st</i> | | \$ 61,859.68 | | \$ 73,749.57 |
| <i>Receipts</i> | | | | |
| Refund from Regional Counsel (for Investigators and Office Expense) | | 201,013.30 | | 203,423.28 |
| | | <u>\$262,872.98</u> | | <u>\$277,172.85</u> |
| <i>Less—Expenses (Net)</i> | | | | |
| <i>Investigators</i> | | | | |
| Salaries | \$136,695.08 | | \$145,022.69 | |
| Payroll Taxes | 7,296.27 | \$143,991.35 | 8,064.35 | \$153,087.04 |
| | | <u></u> | | <u></u> |
| <i>Office</i> | | | | |
| Salaries | \$ 33,930.29 | | \$ 39,838.51 | |
| Payroll Taxes | 1,824.07 | | 2,274.56 | |
| Expense | 9,377.70 | 45,132.06 | 12,607.58 | 54,720.65 |
| | | <u></u> | | <u></u> |
| Total Expenses (Net) | | 189,123.41 | | 207,807.69 |
| <i>Balance—December 31st</i> | | <u>\$ 73,749.57</u> | | <u>\$ 69,365.16</u> |

[fol. 1280]

Operations of Legal Aid Department

Operations of Legal Aid Department

BROTHERHOOD OF RAILROAD TRAINMEN—Cleveland, Ohio

(Name of Department changed to "Department of Legal Counsel" effective January 1, 1959)

| | YEAR 1958 | | YEAR 1959 | |
|---|---------------------|--------------|---------------------|--------------|
| Balance—Jan. 1st | \$ 69,365.16 | | \$ 19,846.52 | |
| Receipts | | | | |
| Refund from Regional Counsel (for Investigators and Office Expense) | 156,902.27 | | 158,080.06 | |
| | <u>\$226,267.43</u> | | <u>\$177,926.58</u> | |
| Less—Expenses (Net) | | | | |
| Investigators | | | | |
| Salaries | \$140,007.63 | | \$ 93,810.74 | |
| Payroll Taxes | 8,290.95 | \$148,298.58 | 7,356.79 | \$101,167.53 |
| | <u>\$ 35,838.21</u> | | <u>\$ 31,982.49</u> | |
| Office | | | | |
| Salaries | \$ 35,838.21 | | \$ 31,982.49 | |
| Payroll Taxes | 2,072.74 | | 2,452.27 | |
| Expense | 20,211.38 | 58,122.33 | 31,138.53 | 65,573.29 |
| | <u>\$ 58,122.33</u> | | <u>\$ 65,573.29</u> | |
| Total Expenses (Net) | <u>206,420.91</u> | | <u>166,740.82</u> | |
| Balance—December 31st | <u>\$ 19,846.52</u> | | <u>\$ 11,185.76</u> | |

[fol. 1282]

IN THE CHANCERY COURT OF THE
CITY OF RICHMOND, VIRGINIA
PLAINTIFF'S BYINGTON EXHIBIT "A"

GEORGIA, POLK COUNTY.

IN THE SUPERIOR COURT OF SAID COUNTY

The Grand Jurors selected, chosen and sworn for said County, to-wit:

- | | |
|--------------------------|-------------------------|
| 1. Phil H. Brewster, Sr. | FOREMAN |
| 2. Stovall W. Trawick | 13. Geo. H. Mason |
| 3. C. Mack Jones | 14. Raidon M. Moates |
| 4. Joe B. Bennett | 15. Grady Dempsey |
| 5. B. F. Ziglar | 16. Horace E. Pugh |
| 6. Geo. S. Boston | 17. Pierce Dotley |
| 7. David H. Young, Jr. | 18. Stanley Wright, Sr. |
| 8. Winfred Statham | 19. F. W. Aldridge |
| 9. J. Elmo Parrish | 20. B. L. Moody |
| 10. John P. Pickett | 21. C. J. LeMay |
| 11. Clyde H. Tuck | 22. J. W. Carpenter |
| 12. C. P. Yonn | 23. Lawrence Willis |

In the name and behalf of the citizens of Georgia, charge and accuse B. G. BYINGTON hereafter referred to as the accused, of the County and State aforesaid with the offense of Barratry for that the accused on the 4 day of July, in the year of our Lord Nineteen Hundred and Fifty-nine in the County aforesaid, did then and there, unlawfully and with force and arms:

seek out and propose to another person, to-wit: Mrs. Betty Ann Queen, that she present and urge a suit in tort for the

1326

death of her husband, Jimmy D. Queen, against the Central of Georgia Railway Company.

contrary to the laws of said State, the good order, peace and dignity thereof.

Polk Superior Court.

Prosecutor.

February Term, 1961

DAN WINN
Solicitor General

SPECIAL PRESENTMENT

[fol. 1283]

We, the Jury, find the defendant, B. G. Byington, guilty,
This the 12th day of July, 1961

S

C. B. BURKE, JR. Foreman.

WITNESSES FOR THE STATE

Mrs. Betty Ann Queen Doeg

Parker Whitfield

The Defendant

B. G. Byington

waives copy of Indictment and list of witnesses, also waives
being formally arraigned and pleads not guilty.

WAYNE W. GAMMON

Solicitor

J. S. KILPATRICK

Defendant's Attorney

July 11, 1961

No. 168

CITY COURT OF POLK COUNTY

D. P. No.

CASE No.

Polk Superior Court

February Term, 1961

THE STATE

VS.

B. G. BYINGTON

Barratry

True Bill

PHIL BREWSTER Foreman

DAN WINN, Solicitor-General

Returned into open Court, by Grand Jury, this 6 day of
March 1961

F. L. HAGAN Clerk

SPECIAL PRESENTMENT

1328

[fol. 1284]

No. 168

CITY COURT OF POLK COUNTY

January Term, 1961

Charge: Barratry

VERDICT OF GUILTY

STATE OF GEORGIA

vs.

B. G. BYINGTON

WHEREUPON, it is ordered, considered and adjudged by the court that the defendant aforesaid do serve and be confined in a Public Works Camp in said State or elsewhere, as the proper authorities may direct for the full term of 12 months, to be computed from the date of this sentence.

It is further ordered that upon payment by said defendant of the sum of \$750.00 dollars including the cost of this prosecution at any time before the expiration of this sentence, that defendant be allowed to serve said 12 months' sentence on probation during good and lawful behavior, and under the supervision of the Probation Officer of this Court.

This 12th day of July 1961

OLIN T. FLOURNOY

Judge City Court of Polk County.

GEORGIA, POLK COUNTY

I, F. L. HAGAN, Clerk of the City Court of Polk County, do hereby certify that the above and foregoing is a true and correct copy of the sentence of the Court passed upon the defendant, B. G. Byington, as same appears of record in this office.

WITNESS my signature and seal of said Court hereto affixed.

This 4th day of October, 1961.

/s/ F. L. HAGAN

Clerk City Court of Polk County, Georgia

(SEAL)

[fol. 1285]

GEORGIA, POLK COUNTY.

I, F. L. HAGAN, Clerk of the City Court of Polk County, Georgia, the same being a Court of record and having a seal, hereby certify that the Hon. Olin T. Flournoy is the duly elected, qualified, and presiding Judge of the City Court of Polk County, Georgia.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office, this the 4th. day of October, 1961.

/s/ F. L. HAGAN

Clerk of the City Court of Polk Co., Georgia.

(SEAL)

GEORGIA, POLK COUNTY.

I, OLIN T. FLOURNOY, the duly elected, qualified and presiding Judge of the City Court of Polk County, Georgia, hereby certify that F. L. HAGAN is the duly elected, qualified and serving in his official capacity as CLERK of the Superior Court of Polk County, Georgia, and also as Clerk of the City Court of Polk County, Georgia.

IN WITNESS WHEREOF, I have hereunto set my hand and official signature, this the 4th day of October, 1961.

/s/ OLIN T. FLOURNOY

Judge of the City Court of Polk County, Ga.

(SEAL)

GEORGIA, POLK COUNTY.

I, F. L. HAGAN, Clerk of the City Court of Polk County, Georgia, the same being a Court of record having a seal, hereby certify that attached and foregoing two typewritten instruments is a true copy of the INDICTMENT in the case of The State vs. B. G. Byington, being Case No. 168 in the City Court of Polk County, Georgia, charging the said B. G. Byington with the offense of barratry, together with the PLEA of Not Guilty thereon and the VERDICT of Guilty

returned by the jury, together with the sentence imposed by the Court, dated the 12th day of July, 1961, as the same appears of file and record in the Office of the Clerk of the City Court of Polk County, Georgia.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office, in the City of Cedartown, County of Polk, State of Georgia, on this the 4th. day of October, 1961.

/s/ F. L. HAGAN

Clerk of the City Court of Polk County, Georgia.

(SEAL)

[Pol 1286]

THE STATE

v.

B. G. BYINGTON

Indictment for Barratry. City Court of Polk County, July Term, 1961. Trial July 11-12, 1961, Hon. Olin T. Flournoy Presiding. Charge of the Court.

Gentlemen of the jury, this is the case of The State of Georgia against B. G. Byington, who is charged with the offense of barratry, based upon an indictment which was returned at the February Term, 1961, of Polk Superior Court, which charges and accuses the defendant that he, the accused, on the fourth day of July, 1959, in the county aforesaid, did then and there unlawfully and with force and arms seek out and propose to another person, to-wit, Mrs. Betty Ann Queen, that she urge a suit in tort for the death of her husband, Jimmy D. Queen, against the Central of Georgia Railway Company, contrary to the laws of said state, the good order, peace and dignity thereof.

To the charge as set out in this indictment the defendant has filed his plea of not guilty, which means that he denies all the allegations of this indictment. Those allegations in the indictment and his plea of not guilty form the issue which you are sworn to try.

The burden is on the state to prove each and every allegation set out in this indictment, to your satisfaction, beyond a reasonable doubt. Lady and gentlemen, the term "reasonable doubt" means the doubt of a reasonable man and juror who is honestly in search of the truth of the case, which doubt grows out of the evidence or the want of evidence, or the circumstances in the case.

In all criminal trials, lady and gentlemen, the defendant enters into the trial with the presumption of innocence in his favor. This presumption remains with him throughout the trial and until and unless it is overcome to your satisfaction and beyond a reasonable doubt. The term "reasonable doubt" means the doubt of a reasonable man and juror who is honestly in search of the truth of the case, which doubt grows out of the evidence or the want of evidence or the circumstances of the case, as I have just charged you.

I charge you, lady and gentlemen, that the indictment in this case that I have read to you alleges that the defendant committed barratry on the fourth day in July, 1959, in that he did seek out and propose to another person, to-wit, Mrs. Betty Ann Queen, that she present and urge a suit in tort for the death of her husband, Jimmy D. Queen, against the Central of Georgia Railway Company. In this connection I again charge you that the state must prove, beyond a reasonable doubt, first, that the defendant did seek out Mrs. Betty Ann Queen. If the defendant did not seek her out he would not be guilty of any offense. Secondly, the state must prove beyond a reasonable doubt that the defendant, after seeking out Mrs. Queen, must have proposed to her that she sue the Central of Georgia Railway Company for the death of her husband. If the defendant sought out Mrs. Queen, but did not propose that she present and urge a suit against the Central of Georgia Railway Company, he would not be guilty of any offense.

Therefore, if you find that the defendant did not seek her out, or if he did seek her out he did not propose that she present and urge a suit against the railway company, or if you have a reasonable doubt that he did either of those acts, it would be your duty to acquit him.

I charge you further, lady and gentlemen, that the evidence shows that Mr. J. D. Queen was a member of the Brotherhood of Railway Trainmen at the time of his death, and that this Brotherhood was the duly recognized bargaining agent for the craft of which Mr. Queen was a member. The evidence also shows that Mr. Byington was the chairman of the Central of Georgia Railway Company for the Brotherhood of Railroad Trainmen. I charge you that as such general chairman, Mr. Byington had the right to visit the widow of the deceased trainman, and on such a visit he further had the right to explain to her what rights and benefits were hers under the law and under the provisions made by the Brotherhood. If Mr. Byington's visit was made for the purpose of giving such explanation, I charge you that he would not have sought her out as charged in the indictment, and you would acquit him.

I further charge you that in such a visit for the purpose of explanation to Mrs. Queen of her rights, Mr. Byington further had the right to suggest to Mrs. Queen that she seek legal advice, and suggest to her the name of one whom Mr. Byington considered to be competent to give such advice, and Mr. Byington would have the right in such [fol. 1288] case to take Mrs. Queen to seek such legal advice. If you find under the evidence in this case that Mr. Byington limited himself to the exercise of these rights, it would be your duty to acquit him. I charge you, on the other hand, lady and gentlemen, if you find that in addition to the services that I have just talked to you in these requests to charge by the defendant, if the defendant went to Mrs. Queen also for the purpose of urging a suit against the railroad, and sought her out, in addition to the other reasons that I have just stated to you, you would be justified in finding him guilty of a violation of the law as charged in the indictment.

Lady and gentlemen, you are the judges of the law and the facts in this case. You take the law as I have given it to you in charge, and apply it to all of the evidence introduced by the state and by the defendant, and you arrive at your verdict. If you find to your satisfaction, beyond a reasonable doubt, that the defendant at any time within a

two-year period prior to the issuance of the indictment, committed the offense as alleged in the indictment, you should find him guilty, and the form of your verdict would be, We the jury find the defendant guilty. If after hearing all the evidence and the defendant's statement there remains a reasonable doubt in your mind as to the guilt of the defendant, you should find him not guilty, and in that event the form of your verdict would be, We the jury find the defendant not guilty. In either case, when you have reached a verdict, write it on the back of the accusation, date it, have your foreman sign it, and return it into open court.

The foregoing three typewritten pages approved as correctly setting forth the charge of the court in the case stated. Let the same be filed as a part of the record in said case.

Judge City Court of Polk County.

[fol. 1289]

THE STATE

V.

B. G. BYINGTON

Indictment for Barratry. City Court of Polk
County, July Term, 1961. Trial July 11—12,
1961, Hon. Olin T. Flournoy Presiding.

REPORT OF THE EVIDENCE.

T. L. Williams,
Official Reporter
Dallas, Ga.

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THE STATE

v. D

B. G. BYINGTON

Indictment for Barratry. City Court of Polk County,
July Term, 1961. Trial July 11-12, 1961, Hon. Olin T.
Flournoy Presiding.

Appearances:

For the State, Solicitor General Wayne Gammon, Dan
Winn.

For the Defendant, James S. Kilpatrick, Ed Sell.

Mrs. NEAL WILLS, sworn for the state, testified:

Q. You are Mrs. Neal Wills? A. Yes, sir.

Q. Where do you live? A. Route 1, Cedartown.

Q. How long have you lived in this area, Mrs. Wills?

A. All my life.

Q. Mrs. Betty Ann Queen, now Betty Ann Queen Doeg,
is your daughter? A. Yes, sir.

Q. Do you remember the occasion when Mrs. Betty Ann's
husband was killed about June 24, 1959? A. Yes, sir.

Q. Some short time after that where were they living,
where was your daughter living? A. After her husband's
death she lived with me, on Cedartown Route 1.

Q. Where had she been immediately before she came to
your home out there? A. She lived on Russell Street in
Cedartown.

Q. Did she go there from the hospital here? A. Yes,
sir.

Q. Why was she in the hospital? A. She gave birth to
her little son.

Q. Then she came out to your house around the first of July, is that right? A. Yes, sir.

Q. Do you know the accused, Mr. Byington? A. Yes.

Q. When did you first see him, Mrs. Wills? A. It was on July 4, he came to our home.

Q. Was that July 4, 1969? A. Yes.

Q. Shortly after Betty Ann came to your house with her new baby? A. That's right.

Q. Was that the first time you had ever seen Mr. Byington? A. Yes, it was.

Q. Who was with him at that time? A. Parker Whitfield.

—2—

[fol. 1291] Q. He is an employee of the Central of Georgia railroad? A. Yes.

Q. I believe he was president of the local at that time, was he? A. Yes.

Q. On this visit who was at your house when Mr. Byington came there? A. There was myself and Betty Ann and Christine Peek and Marjorie Reed and Mary Ann Wills.

Q. They all are relatives of yours and Betty Ann's? A. Yes.

Q. Do you remember approximately the time of day that Mr. Byington came? A. Well, it was sometime in the afternoon, around 2 o'clock I guess.

Q. When he got there what did he say was the nature of his visit? A. Well, he came in and said that he would like for Betty Ann to go with him to Birmingham for a settlement.

Q. Who did he want her to see in Birmingham? A. A lawyer.

Q. Do you remember the name of the lawyer? A. Well, it seems like it was a Mr. Reeves, I am not sure.

Q. How did he propose for her to go to Birmingham and see this lawyer? A. He said he would be glad to come and get her in his car and pay all the expenses for her to go, that it wouldn't cost her anything.

Q. Was anybody going to go except her? A. He said I could go with her if she wanted me to, and her expenses and mine would be taken care of.

Q. What did she tell him about going with him? A. Well, at the present time she told him she didn't want to go.

Q. Did she tell him why? A. She said she wanted to settle with the railroad.

Q. And then what did he tell her? A. He told her that she could get a lot better settlement if she would go to Birmingham than she would if she settled with the railroad.

Q. Did she go with him then? A. No, sir.

Q. What did she tell him then? A. She told him she didn't want to go, you know, she wanted to settle with the railroad.

Q. Was there anything said about the use of an attorney at all to Mrs. Betty Ann? A. I don't remember.

Q. On that particular occasion? A. Not on that particular visit, I don't remember.

Q. Now, did you yourself have a conversation with Mr. Byington on that particular visit? A. Well, not on that [fol. 1292] particular visit I did not, because I was in and out of the room most of the time, taking care of the baby.

—3—

Q. Later did you have occasion to see or hear from Mr. Byington again after that visit on July 4? A. Yes, he came back to our house about the middle of August.

Q. Do you know whether or not he had been in contact with Betty Ann between the middle of August, his second visit, and his first visit? A. Yes, she had a long-distance telephone call from him.

Q. And he came again in the middle of August? A. Yes.

Q. At that time where did you and Betty Ann live? A. We lived at 110 Park Street, Cedartown.

Q. Who was with Mr. Byington at this time? A. He came alone.

Q. Do you recall who was present when he came to 110 Park Street? A. My daughter Betty Ann and my daughter-in-law Mary Ann, and myself.

Q. What did he say was the purpose of his visit the second time, in August? A. Well, he said he came to see if he couldn't persuade her to go with him to Birmingham to see this attorney, to get a greater settlement.

Q. What did she tell him? A. She said she was not interested in going and she was not going.

Q. Do you know whether or not at that time she had an attorney? A. No, sir.

Q. Was there anything mentioned about her having an attorney? A. He asked if she had one and she told him no, but if she needed one she would get one here in Cedar-town, because there was good lawyers here.

Q. What did he have to say about that? A. He said there wasn't any of them here that could get her as good a settlement here as she could get if she would go with him to Birmingham. He said the lawyers here wasn't capable of handling things like that.

Q. That the lawyers here were not capable of trying the case? A. Or handling one, that was his words.

Q. How did Betty Ann react to this, did she go with him to Birmingham then? A. No, she did not.

Q. What did she tell him at that time? A. She told him she wished he would go back to Birmingham and leave her alone, because she was going to settle with the railroad, and what she got would please her.

[fol. 1293] Q. Did you have any conversation with him at that time? A. Not at that time.

Q. After the second visit in the middle of August did you later see him again? A. Yes, he came sometime in September.

Q. And who was with him that time? A. He was by himself.

Q. Where were you and Betty Ann living? A. At the same place, Park Street.

Q. Do you recall who was at the house when he came the third time? A. Betty Ann and Mary Ann and myself.

Q. Mary Ann Wills? A. That's right.

Q. And what was his reason for making the third trip? A. Well, he said he came to see if he couldn't persuade her one more time to go to Birmingham with him, and she told him she wasn't going, and then I had to ask him to please leave, because Betty Ann was not interested in going to Birmingham, that she was going to settle with the railroad.

Q. You yourself told him that? A. Yes.

Q. Was that the first time that you yourself had taken a stand in the discussions with him? A. Yes.

Q. Did Betty Ann receive any letters from Mr. Byington during that time? A. Yes, I believe she did receive one that I know of.

Q. You saw one? A. Yes.

Q. Do you remember what kind of car Mr. Byington was driving at the time he came? A. He was driving a Cadillac, I don't know what model.

Mr. Kilpatrick: I don't think it is material about what kind of a car was involved, or whether he came by train or how he got there, and we object to the question about what kind of an automobile he was driving.

The Court: What is the purpose of the question?

Sol.-Gen.: We don't have any difference on the type of car, but I do believe the circumstances, the question will show that that part of it is admissible.

The Court: I will allow him to go ahead and find out where he is going with it.

Q. How did Mr. Byington propose to take you and Betty Ann to Birmingham? A. Well, he said it would be very comfortable in his car, because he had an air-conditioned car to take us in, a Cadillac, that's what he said he had.

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[fol. 1294] Q. Do you remember whether or not Mr. Byington had any papers or anything with him at the time he came? A. Yes, he came in with a little brief case. He wanted to show Betty Ann some copies, he said, of cancelled checks where he had made other large settlements for other people that had such accidents as her husband had.

Q. Do you remember what he told her about this case, its value or whether it had any value or not? A. He said it would be a much larger settlement if she would go with him down there than she could get here if she settled with the railroad.

Q. Was there anything mentioned about any expenses? A. He said our expenses would be paid.

Q. Do you remember whether or not there was any offer of money? A. I don't remember.

Q. This visit where Mr. Byington came to your home the first time, where was that? A. On Route 1, Cedartown.

Q. Is that home in Polk County, Georgia? A. Yes, sir.

Q. And where he came to the home two times in on Park Street? A. Yes.

Q. Is Park Street in Polk County, Georgia? A. Yes.

Cross examination.

By Mr. Kilpatrick:

Q. Mrs. Wills, what date did your son-in-law get killed on the railroad, do you recall? A. Yes, sir.

Q. What date was it? A. June 24, 1959.

Q. Had you prior thereto known Mr. Byington? A. No, sir.

Q. Had you or not at any time consulted with your son-in-law in regard to the railroad union? A. No, sir.

Q. You knew nothing about that? A. No, sir.

Q. Did you at any time know anything about the benefits that the Brotherhood of Railroad Trainmen furnished its members? A. No, sir.

Q. Now, the day you say I believe July 4 that Mr. Byington came to see your daughter, you say it was July 4? A. Yes.

Q. You stated that she had a baby at that time? A. Yes.

Q. And you made a number of statements in regard to statements that Mr. Byington made. Do you know out of your own knowledge, or did your daughter tell you? A. What I heard, I know.

—6—

[fol. 1295] Q. What you heard you know; is that what you just told, or did you tell some things your daughter had told you? A. No, I am telling the truth.

Q. I am not saying you didn't tell the truth, I am saying the things you told the jury that Mr. Byington said on

that visit, was that told you by your daughter, or did you hear that? A. I heard that.

Q. You overheard that? A. I heard it.

Q. Did you stay in the room? A. I was in and out.

Q. You were in and out, you didn't know what else was said in the meantime? A. No, when I was out of the room I didn't know.

Q. Now, Mrs. Wills, have you consulted the solicitor's office this morning about this case? A. No, sir.

Q. You haven't talked to Mr. Winn or Mr. Gammon about it today? A. No, sir.

Q. Have you talked to them on prior occasions? A. No, sir.

Q. Have you ever talked to them about the testimony you are giving? A. No, sir.

Q. Have you ever talked to me? A. No, sir.

Q. Or to Mr. Byington? A. No, sir.

Q. Or to Mr. Sell? A. No, sir.

Q. Do you know whether or not the union of which your son-in-law was a member sent flowers to the funeral? A. The Brotherhood?

Q. Yes. A. I think so.

Q. And do you also recall that Mr. Byington, when he came there, told your daughter that he was general chairman of the union in this section and that his job was to assist those who were injured by the railroad? A. I don't remember that.

Q. What you have stated, is it your statement that that's all the conversation that was had between Mr. Byington and your daughter, or were there other statements made by him? A. I don't know, I just told what I heard.

Q. In other words, you heard no other statements other than the statements that you have just made? A. I heard what I stated.

Q. Now, were you with your daughter during this period from July 4 to September, were you with her most of the time? A. Yes, sir.

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[fol. 1296] Q. Do you know whether or not she talked to anybody else about the case? A. No, I don't think so.

Q. You don't think so? A. I don't remember it.

Q. She could have, is that correct? A. I don't know.

Q. Did you discuss this with your daughter quite frequently? A. No, sir.

Q. You didn't keep up with her association with the railroad? A. No, sir.

Q. Now, you testified that on July 4, and one time in August, do you recall the exact time, the day? A. I remember the date.

Q. What date was it? A. The first visit was July 4 and the second visit was August 2.

Q. And did you state that he came the third time? A. Yes, it was sometime in September, I don't remember that date.

Q. Where was your daughter living at that time? A. She was living with me on Park Street, 110 Park Street.

Q. Now, was your husband present at the time Mr. Byington first came to visit your daughter? A. Yes, he was at home. I don't think he was in the room part of the time.

Q. He was present? A. Well, I think he was at home, but I don't think he was in the room.

Q. You and he are separated? A. Yes.

Q. Mrs. Wills, on the third trip you say Mr. Byington came, you say it was the early part of September? A. Yes, sir.

Q. Could you give the jury some idea of the date, was it the first or the 10th or the 13th or what? A. It was somewhere around the first of September or about the middle of September.

Q. Why do you recall that it was the first or middle of September? What makes you remember that? A. It was just before Betty Ann's settlement.

Q. What date was the settlement? A. It was sometime close to that, I don't remember the date.

Q. Do you know what the settlement was? A. No, sir.

Q. Didn't anybody tell you that? A. I never asked.

Mr. Gammon: I object to that as being irrelevant and immaterial. She said she didn't know. The question is improper.

Mr. Kilpatrick: I submit that she said Mr. Byington encouraged her not to make a settlement, and I think it is proper to show what the settlement was, if she knows.

[fol. 1297] The Court: She said she didn't know.

Q. Do you know what the settlement was in this case?
A. No, sir.

Q. I believe you said it was made directly with the railroad by Mrs. Queen, is that correct? A. That's right.

Q. Did Mr. Byington ever come back after the September visit? A. No, sir, not after the third visit, I didn't see him any more.

Q. In other words, he made three visits? A. Yes.

BETTY ANN QUEEN DOEG, sworn for the state, testified:

Q. Betty Ann, I want to ask you some questions. Speak loud so these gentlemen over here can hear you. You are Mrs. Betty Ann Queen Doeg? A. Yes, sir.

Q. Where do you live? A. I live at 339 East Fairmount.

Q. Is that here in Cedartown? A. Yes, sir.

Q. Were you married prior to July 4, 1959? A. Yes, sir.

Q. Who were you married to? A. Jimmy Doyal Queen.

Q. Do you have any children? A. Yes, sir.

Q. Where did your husband work? A. He worked for the Central of Georgia railroad.

Q. Were you employed? A. No, sir.

Q. I believe your husband was killed in a railroad accident during June, 1959, is that correct? A. Yes, sir.

Q. What was the date he was killed? A. June 24, 1959.

Q. What was your condition at that time? A. Well, we was expecting a child at that time.

Q. When was the child born? A. June 27.

Q. Three days after your husband was killed? A. Yes.

Q. How long were you in the hospital? A. About four or five days.

Q. At which hospital was this child born? A. At the Rockmart-Aragon Hospital.

Q. Was it a boy or girl? A. Boy.

Q. When you left the hospital where did you go? A. To my mother's house.

Q. Where is that? A. Between Rockmart and Cedar-town.

Q. Is that the old Peek place on the Antioch road? A. Yes, sir.

[fol. 1298] Q. How were you feeling at the time you went to your mother's? A. Well, I was still taking medicine and everything, but I wasn't in too good shape.

Q. Were you at your mother's house on July 4, 1959? A. Yes, sir.

Q. Do you recall who was present during the afternoon of that day? A. My mother and my brother's wife and Christine Peek and Marjorie Reed.

Q. Did you have any visitors that afternoon besides these relatives? A. Yes, sir.

Q. Who visited your home that afternoon? A. Mr. Byington.

Q. Is that Mr. B. G. Byington, seated at the table over here? A. Yes.

Q. Was anyone with him? A. Parker Whitfield was with him.

Q. Who is Parker Whitfield? A. He works for the Central of Georgia railroad.

Q. Did you know they were coming? A. No, sir.

Q. Had you invited either one of them there? A. No, sir.

Q. Did you have any conversation with Mr. Byington? A. Yes, sir.

Q. Did he tell you what the purpose of his visit was? A. Yes, he come to take me to Birmingham.

Q. What did he want to take you to Birmingham for? A. To see a lawyer about suing the railroad.

Q. What was the lawyer's name? A. Mr. Reeves (Rives) I think it was.

Q. Had you ever known of this fellow before? A. No, sir.

Q. Had you ever known Mr. Byington before? A. No, sir.

Q. Had you known Parker Whitfield before? A. No, sir.

Q. What did he tell you about this case, as to why you should go to Birmingham? A. Well, he said I wouldn't get

a fair settlement out of the railroad, that I needed a lawyer, and he said the lawyers here in Cedartown wasn't capable of handling the case.

Q. Did he say why? A. He said that I needed another lawyer besides these here in Cedartown.

Q. How did he propose for you to go to Birmingham? A. He said he would take me.

Q. And who was to go with you? A. Me and my mother.

Q. How were your expenses to be paid? A. He said he would pay our expenses, both of us.

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[fol. 1299] Q. How was he traveling the day he came to your house the first time? A. In a car, a Cadillac.

Mr. Kilpatrick: We object to that. I don't see the relevancy of it.

The Court: I sustain the objection. I rule it out.

Q. What was your physical condition at that time? A. Well, I had just come from the hospital with the birth of a child.

Q. Did you have any conversation with reference to your physical condition with the defendant? A. Well, I told him I was not able to go to Birmingham at that time.

Q. What was his reply? A. Well, he wanted me to, and he said when I got able to go he would come back.

Q. Did you have enough money to live on? A. Yes, sir.

Q. Did you have any conversation with the defendant concerning finance? A. He said if I didn't have the money he would give me money along to live on until I got a settlement.

Q. At the time Mr. Byington came to your house did he have anything with him? A. Yes, he had a brief case.

Q. Did you see anything in that brief case? A. Yes, he showed me some checks, cancelled checks that was made out to this lawyer in Birmingham, he had got these settlements for people.

Q. What did you tell Mr. Byington? A. Well, I told him that I was not interested in going to Birmingham.

Q. How long did he stay at your house, how long did all this take? A. He stayed all the afternoon.

Q. After this visit that we have been talking about did you hear from him again? A. Yes, sir.

Q. What was the next communication that you had from him? A. I believe I got a letter from him.

Q. Did he ever call you on the telephone? A. Yes.

Q. Do you recall which was first, the telephone call or the letter? A. I believe the telephone call was first, and then I received a letter.

Q. What were the circumstances concerning the telephone call? A. He called to see if I was able to go to Birmingham.

Q. Where did he call from? A. At Parker Whitfield's.

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[fol. 1300] Q. And where were you? A. I was at home.

Q. How far was Parker Whitfield's house from the place where your mother was living? A. The second door.

Q. Where is this? A. 119 Park Street, Cedartown.

Q. How long had he been living there? A. Just a short while.

Q. You say he went to Parker Whitfield's house? A. Yes, sir.

Q. And you talked to Mr. Byington? A. Yes.

Q. What did he say? A. He just asked me was I ready to go to Birmingham, and I told him no, I was not able to make the trip.

Q. Did you have any further communication with Mr. Byington? A. Well, he came again.

Q. Approximately what was the date of that visit, if you know? A. That was in August.

Q. August 1959? A. Yes.

Q. What did he have to say at that time? A. Well, he was still asking was I wanting to go to Birmingham for a settlement, and I told him no.

Q. Did he have anything with him that time? A. Yes, he had a brief case.

Q. Did you see anything in the brief case? A. Yes, he had these copies of checks and papers.

Q. Did you have any further discussion with him concerning finances? A. He said if I didn't have enough money to live on he would lend me money to live on until I got my money from the railroad.

Q. After that date did you have any further communication with him? A. Yes, he came back again.

Q. What was the purpose of that visit? A. Well, he still wanted to take me to Birmingham.

Q. And what did you tell him? A. I told him I wasn't going, I wasn't interested, if I had to have a lawyer I would get some lawyers around here. I told him I knew some lawyers around here.

Q. What was his reply? A. He said well, the lawyers around here wasn't capable of handling a big case like mine.

Q. Did your mother have any communication with him on this occasion, the third trip? A. Yes, she told him that I was not going to Birmingham and she would like for him to leave, if I needed a lawyer there was plenty of lawyers here.

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[fol. 1301] Q. Do you know anybody in Birmingham? A. No, sir.

Q. Did you know this lawyer, Rives? A. No, sir.

Q. Have you ever been to Birmingham? A. No, sir.

Q. Have you ever had any further communication from Mr. Byington since the third visit? A. No, sir.

Q. Did you ever write Mr. Byington a letter? A. Yes, sir.

Q. What kind of a letter did you write him? A. Well, he was saying he would be the one to get the money, and everything like that, and I just wrote him and told him that I would like for him to come on up where I could get my money and get it over with.

Q. He had told you what? A. That he would be the one to pay me himself.

Q. That he would be the one to collect the money and pay it to you? A. Yes, sir.

Q. Did you have any conversation with Mr. Byington concerning his own pay check? A. Yes.

Q. What was that? A. He said if I would go to Birmingham and let him take this case to this lawyer—

Mr. Kilpatrick: I see no relevancy in what Mr. Byington stated.

The Court: I don't know what she is going to say. Go ahead and finish your statement.

The Witness: He said if I would go to Birmingham with him he would guarantee his pay check as long as he lived.

Q. Was there any condition attached to that? A. If I would go to Birmingham.

Q. Did he represent any value of your case to you, did he tell you how much the case was worth? A. Yes, he said a hundred and seventy-five and a hundred and five.

Q. I show you state's exhibits A and A-1. Will you tell me what those two pieces of paper are?

Mr. Kilpatrick: May I see them?

The Court: Yes, before you answer the question let him look at it.

Q. What are these? A. This is a letter that he wrote.

Q. To whom is it addressed? A. To me.

Q. Did you receive this letter? A. Yes, sir.

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[fol. 1302] Q. Is this the envelope that you received it in? A. Yes, sir.

Q. How is that letter signed? A. B. G. Byington.

Q. Is that one of the letters that you spoke of on your direct examination that you received from Mr. Byington? A. Yes, sir.

Q. I show you state's exhibit B and B-1. Will you examine these pieces of paper and tell me what they are? A. This is a letter that I got from him.

Q. Is this the other letter that you referred to in your direct examination that you received from Mr. Byington? A. Yes, sir.

Q. Did you receive this document through the United States mail? A. Yes, sir.

Q. Was it contained in that envelope? A. Yes, sir.

Q. How is this letter signed? A. B. G. Byington.

Q. What is the date of that letter? A. July 23, 1959.

Q. Did you at any time ever give Mr. Byington any encouragement about going to Birmingham? A. No, sir.

Cross examination.

By Mr. Kilpatrick:

Q. Mrs. Doeg, when did you marry Mr. Queen? A. In 1959.

Q. What time? A. It was in August sometime, I have forgotten the date.

Q. August '59? A. Fifty-eight.

Q. Was he working on the Central of Georgia railroad at that time? A. Yes, sir.

Q. Do you know whether or not he was a member of the Brotherhood of Railroad Trainmen at the time you married him? A. Yes, sir.

Q. Did you ever have occasion to discuss the Brotherhood with him in any way whatsoever? A. No, sir.

Q. Did you or not know of any benefit the Brotherhood offered its employees? A. No, sir.

Q. Had you heard of Mr. Byington on any occasion? A. No, sir.

Q. Now, Mrs. Doeg, how many people would you say that you have discussed this claim with before you made a settlement between July and September of 1959? A. Well, there was two or three.

Q. Two or three people? A. Yes.

Q. Now, where was the other people from, do you recall?

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[fol. 1303] A. One was from Atlanta, I don't remember his name.

Q. Do you recall who that was from Atlanta? A. No.

Q. Do you know what business that person was in that you talked to from Atlanta? A. He wanted the case too.

Q. What do you mean, he wanted the case? A. Well, he wanted to try to get me to sue the railroad.

Q. Tried to get you to sue the railroad? A. Yes.

Q. Do you know what his occupation was? A. No, I don't.

Q. Didn't he tell you what his occupation was? A. He did, but I don't remember.

Q. Did he tell you why he came to see you? A. Yes.

Q. How many visits did this man from Atlanta make to see you? A. One.

Q. Now, you testified that Mr. Byington came on July 4? A. Yes.

Q. July 4, 1959? A. Yes.

Q. That was the first trip? A. Yes.

Q. Was this visit from this man from Atlanta prior to that time or after that time? A. It was after, I believe.

Q. It was after that time? A. I believe so.

Q. Do you recall when Mr. Byington came the second time, what the date of that was? A. August 29.

Q. Did you invite him to come and talk with you about this case? A. No, sir.

Q. You did not invite him? A. No, sir.

Q. Did you ever invite him? A. No, sir.

Q. Now, the man from Atlanta, did he come between the times that Mr. Byington came? A. No, sir.

Q. It was not between that time? A. No.

Q. Was it after August 29 that the man from Atlanta came to see you? A. I am not sure.

Q. Now, do you recall that he had a brief case with him? A. He had some papers.

Q. He also had some pictures and checks and things, didn't he? A. I am not sure, but—

Q. You say that Mr. Byington showed you checks and that he had papers and things that he pulled out of his—

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[fol. 1304] brief case. You could be mistaken about that, couldn't you? A. No, sir.

Q. Did you talk with me about this case? A. Yes, sir.

Q. Was that about Wednesday preceding July 3, when this case was set for trial? A. Yes.

Q. Didn't you tell me that you had just forgotten about what happened down there that day? A. Yes.

Q. You said you had forgotten all about it? A. Yes.

Q. What made you remember the details that you have testified here today? A. Well, it just came to me.

Q. Have you been talking to Mr. Winn and Mr. Gammon about it since I talked with you? A. Yes.

Q. You have talked with them numerous times, haven't you? A. No, sir.

Q. Didn't I ask you at the time I came to see you, when

I was preparing to defend this case, as to whether or not Mr. Byington had tried to get you to file suit against the Central of Georgia railroad and you said he hadn't, is that correct? A. Yes.

Q. And it is still correct today, isn't it? A. No, sir.

Q. It is not correct today? A. No.

Q. How come it to change between that day and this day? A. Well, I just remember things.

Q. In other words, you just changed it around? A. No, sir, things just came to me.

Q. Isn't it true that when Mr. Byington came to see you he told you he was general chairman of the union committee of the railroad, and in that capacity it was his duty to contact those who were injured, or the widows of those who were deceased, under the constitution he had the authority to tell them that they could confer with competent legal counsel in connection with anything they might have in case of accident, did he tell you that? A. He was trying to get me to go to Birmingham—

Q. The question I am asking you is, did Mr. Byington introduce himself to you as general chairman of the grievance committee of the Brotherhood of Railroad Trainmen and it was his duty to help all those who had lost their husbands, connected with their employment with the Central of Georgia railroad, or was injured in that capacity, his duty was to refer them to competent legal counsel, is that correct? A. Yes.

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[fol. 1305] Q. Now then, Mrs. Queen, you talked to somebody else about this case too, didn't you, during the time this man from Atlanta was coming and the time Mr. Byington came up there, didn't you? A. Yes.

Q. Do you know who they were? A. No, I don't.

Q. Do you know what he talked to you about this case, what he said about it? A. No, sir.

Q. You have forgotten all about that? A. Yes.

Q. He could have shown you some checks, is that correct? A. I don't remember.

Q. And he could have shown you some papers, is that correct? A. I don't remember.

Q. And he could have had a brief case, is that correct?
A. I don't remember.

Q. In other words, you are testifying that Mr. Byington had all the things you have talked about because you talked to at least three people, is that correct? A. I saw he had papers.

Q. Now then, I will ask you did you or not talk with the claim agent from the Central of Georgia railroad? A. Yes.

Q. Did he tell you or ask you a question about Mr. Byington's business up here? A. Yes.

Q. In fact, the question he asked you was centered around the fact as to whether or not Mr. Byington was attempting to send you to some lawyer to sue the railroad? A. Yes.

Q. And you discussed the claim settlement, is that right?
A. No—you mean with the railroad claim agent, yes.

Q. And then you let him settle the case for \$25,000, is that right? A. Yes.

Q. Now, Mrs. Queen, didn't Mr. Byington, some time after your husband's death, did he or not send flowers to the funeral, do you recall that? A. I don't remember.

Q. For the Brotherhood of Railroad Trainmen? A. I don't remember.

Q. Don't you know there is a lodge in Cedartown sponsored by the Brotherhood? A. Yes, sir.

Q. Now, Mrs. Queen, or Mrs. Doeg, your mother is Mrs. Wills. You heard her testify? A. Yes.

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[fol. 1306] Q. Have you and her talked about your testimony this morning before you came up here today? A. No, sir.

Q. Have you ever talked with her about what she was going to say and what you were going to say? A. No, sir.

Q. Is it not true that your mother was not present on part of the occasions when Mr. Byington was talking with you about this case? A. She was there the second two times he came, but the first time she was just in and out of the room.

Q. In other words, it is your impression that she did not hear any of the conversation during the first visit, is that correct? A. Well, she heard some.

Q. But you don't know of course what she did hear? A. No.

Q. Now, on the first visit that Mr. Byington made, do you know whether or not he came with someone? A. Parker Whitfield.

Q. Did you know him prior to this occasion? A. No.

Q. Did he tell you who he was? A. Yes.

Q. You have identified a letter dated July 10, 1959, from Mr. B. G. Byington, general chairman. Tell the jury what this letter was in response to? A. He wanted to know when he came, if I moved, he said when I moved, to be sure and notify him where I had moved to.

Q. Did you do that? A. Yes.

Q. Is that the letter you wrote him July 8, 1959 (presenting)? A. That is not my handwriting.

Q. Do you know whose handwriting it is? A. No, I don't.

Q. Do you know who would have been sending your return address as Mrs. Jimmy Queen, 110 Park Street, Cedar-town, Georgia? A. Not unless I got my brother's wife to write the letter.

Q. Did you live at 110 Park Street on July 8? A. Yes.

Mr. Winn: If she wrote him or if this letter was written at her direction, we have no objection to it.

Q. I believe you testified you invited Mr. Byington to come and see you? A. No, sir.

Q. Did you ever invite him to come and see you? A. No, sir.

Q. Now, Mrs. Doeg, I hand you, dated July 27, 1959, and signed Mrs. Betty Ann Queen, a letter reading, "Dear

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[fol. 1307] Mr. Byington: I would like for you to come and try to settle this for me without having to go and talk to the law or having to go to court. I would like for you to come as soon as you can, because I need some money." Did you write that letter? A. Yes.

Q. Then you invited Mr. Byington to come and talk with you about your claim, is that right? A. Yes, because he said he would be the one to pay me. That's why I wrote him.

Q. Isn't it a fact that Mr. Byington told you that they had counsel, the Brotherhood, that he had the authority to

give their names and you could select any attorney you wanted to, that you could select your own attorney? A. No, sir.

Q. Why would he have any reason to tell you to take your case to Birmingham? A. I don't know.

Q. Didn't you appreciate the fact that he was going to carry you to Birmingham, that he was helping you?

Mr. Winn: I object to that as being—

The Court: I will let him cross her.

Q. Did you or not appreciate Mr. Byington's position in representing the Brotherhood of your deceased husband, Mr. Byington was representing the union to which he belonged, the Brotherhood of Railroad Trainmen, and he had told you that it was in his capacity to do this, and offered to help you, to take you and your mother to the place, if you wanted to go, and if you didn't you were under no obligation, isn't that what he said? A. No, sir, he tried to get me to go.

Q. In stating that he tried to get you to go, he was there you said on July 4 and introduced himself? A. Yes.

Q. And then you wrote him on July 27 to come back and see you, in fact you wanted him to come, or you wouldn't have written him? A. Well, he said he would be the one to pay me, and I thought he was the one to pay me. I wanted to get it over with.

Q. And you needed some money at that time? A. Yes.

Q. In fact you talked about money quite a bit after your husband died, is that right? A. No, sir.

Q. At the time Mr. Byington visited you on July 4 did he explain to you the benefits that your husband, or you, would

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[fol. 1308] have under the railroad retirement act? A. Yes, sir.

Q. Later on in the time, you were needing money, were you also negotiating with the claim agent of the railroad at the time you were asking Mr. Byington to come back and help you about it? A. No, sir.

Q. When did you first talk to the claim man from the Central of Georgia railroad? A. I don't remember.

Q. Was it after or before Mr. Byington's first visit? A. I don't remember that.

Q. Was it before or after the second visit that you testified to? A. I don't remember.

Q. In other words, you don't remember much about this at all, do you? A. Well, yes, I remember some about it.

Q. Just like you told me the other day, you just know Mr. Byington came and somebody came from Atlanta and the claim agent came and somebody else came and that is all you know about it, isn't that right? A. That's what I told you.

Q. That you had had so many people talk to you you just didn't want to hear about it any more? A. That's what I told you.

Sol.-Gen.: I offer in evidence state's exhibits A, A-1, B and B-1. I will say that the description on A-1 is not offered, it has nothing to do with the case.

Mr. Kilpatrick: No objection.

State rests.

Mr. Kilpatrick: At this time the defendant would like to move the court for an acquittal in this case, and we have prepared a written motion. The motion is based on the fact that the state is required to prove that the acts alleged in the indictment are correct as alleged. The defendant's position in this case is that the testimony of the prosecutrix, Mrs. Queen, her own testimony is that she invited Mr. Byington to come and see her, and that on the first occasion that he came to see her he identified himself as general chairman of the Brotherhood of Railroad Trainmen and that in that capacity it was his job to contact widows of deceased persons who were killed in their line of duty and who were members of the Brotherhood. She stated on cross-examination, as I recall it, that he did not urge her to file suit, and I think from her testimony he was certainly invited to come there other than the first trip, and that was a trip of explanation more or less, rather than a seeking out or hunting up of a person. Before a conviction would stand in this case, the state would have to prove beyond a reasonable

[fol. 1309] doubt that he sought her out and proposed and urged, sought her out for the purpose of urging her to file suit, and she said that he did not. I don't know of any person who would know better than Mrs. Queen what she said. We ask for an acquittal in favor of the defendant.

After argument by the Solicitor General motion overruled.

BILLY GRIFFIN, sworn for the defendant, testified:

Q. Your name is Billy F. Griffin? A. Yes, sir.

Q. What is your occupation? A. I am a switchman on the Central of Georgia railroad.

Q. How long have you been working for them? A. Fifteen years.

Q. Do you or not have a Brotherhood local, Brotherhood of Railroad Trainmen? A. Yes, sir.

Q. Are you or not a member of that organization? A. I am.

Q. How long have you been a member of it? A. Ever since I have been working for the railroad.

Q. Were you or not a member on June 24, 1959? A. Yes, sir.

Q. Did you know Jimmy Queen during his lifetime? A. Yes, sir.

Q. And was he a member of that organization? A. Yes, sir.

Q. Do you recall how long he had been a member? A. Well, not right off, the exact date. Jimmy joined I would say approximately three months after he was employed, and he was still a member when he was killed.

Q. Did you at this time hold an office with the Brotherhood? A. Yes, sir.

Q. And do you now hold an office with the Brotherhood? A. No, sir.

Q. What was the office that you held? A. I was the local chairman for the local, the representative.

Q. Now, Mr. Griffin, to help the jury understand a little

bit about the Brotherhood, you say you were local chairman? A. Yes, sir.

Q. Just what is that? A. The local chairman handles all the local business of the local office, anything that comes up concerning working conditions or claims, anything on the local level, you handle it with the local officers, and then if you don't settle it it is processed on to the general chairman.

Q. Speaking of the general chairman, are you familiar with his duties? A. Yes, sir.

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[fol. 1310] Q. Tell the jury something about that.

Sol.-Gen.: I believe the Constitution and by-laws would be the best evidence of what the duties of the chairman are.

The Court: I will let him state, if he knows.

Q. Go ahead. A. Well, the general chairman takes anything that can't be settled on the local level and handles it with the higher officials, which would be the personnel department, when you hire offices of the railroad, any questions concerning working conditions or hours or pay.

Q. You are familiar with the Constitution of the Brotherhood of Railroad Trainmen, are you not? A. Yes, sir.

Q. I will ask you specifically if you are familiar with the ruling on general rule No. 5 with regard to the general chairman's job in contacting survivors of a deceased employee, are you familiar with that section? A. Yes, sir.

Q. Is this the Constitution that I hand you? A. Yes, sir.

Q. And is this ruling on general rule 5 on page 142 and 143 of the Constitution? A. Yes, sir.

Rule identified as defendant's exhibit C.

Q. Do you know when Mr. Byington was notified in regard to Mr. Queen's death, if he was notified? A. I don't know the exact date, I would say it was some three or four days after his death. I had occasion to call Mr. Byington about some other business and talked to him, and he already knew it.

Q. Do you recall about what time it was that you talked to him? A. No, sir, I don't.

Q. Now, did you ever talk to Mrs. Queen yourself? A. Yes.

Q. About this death? A. Yes.

Q. Do you recall what conversation you had with her about it?

Mr. Winn: Unless it pertained to the relations of Mr. Byington with Mrs. Queen, I object to it as being irrelevant and immaterial.

Mr. Kilpatrick: We expect to show that it was connected to this matter. We expect to tie it up, and if we don't it will be ruled out.

The Court: Are you seeking to impeach Mrs. Queen?

Mr. Kilpatrick: No, sir, we are attempting to show that a contact had been made with Mrs. Queen. I don't think it would be impeaching, because she testified that she invited Mr. Byington to come—

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[fol. 1311] The Court: Any conversation out of the presence of the defendant would not be admissible.

Mr. Kilpatrick: I am asking the question. I submit that it would be proper evidence.

The Court: All right.

Q. Mr. Griffin, did you talk with Mrs. Queen at any time about this; the death of her husband? A. I talked with Mrs. Queen I believe the day after the boy was buried, pertaining to Jimmy's insurance. I went over her insurance policies with her and her rights in connection with the pension which she would be entitled to, seems like she was entitled to some pension pay at that time. I talked with her about it.

Q. Do you recall whether or not she mentioned Mr. Byington during that conversation? A. At that time I didn't know too much about it, I explained to her that Mr. Byington was the general chairman and he would be up here, I didn't know when he would be here, when he was tied up, but when he could come he would come and talk to her, that he was more familiar with what her rights was and could give her more information concerning it.

Q. Do you know whether or not under the constitution which you have identified, it is his duty to advise legal counsel?

Mr. Gammon: I object to that as leading, and also what the witness's understanding is as to the meaning of the constitution—

The Court: The constitution is not in evidence yet. I rule that question out until it is in evidence.

Mr. Kilpatrick: I would like to tender in evidence the constitution, identified as rule No. 5, page 142 and 143.

Mr. Gammon: We have no objection.

The Court: Let it in.

Q. When you told Mrs. Queen that Mr. Byington would visit her and explain things to her, what did she say to that? A. I don't recall the exact words that she said. It was agreeable to her to talk to him, but just the conversation that we had is not too clear; the things that I didn't know about he could explain to her, he would be here to help her settle everything that she was entitled to, and it was agreed on at that time and I didn't process it any further. I left it to the chairman to process.

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[fol. 1312] Q. What is the name of your local? A. B. Grady Byington No. 332.

Q. Was it named for the defendant in this case? A. Yes, sir.

Cross examination.

Q. I believe you said at the time this happened you were local chairman of the Brotherhood? A. Yes, sir.

Q. I believe my father is a member of your lodge? A. Yes, sir.

Q. The Brotherhood has lawyers that represent— A. They have got lawyers, yes.

Q. And they are what is known as regional attorneys, that's the way they are designated by the Brotherhood?

A. I think so.

Q. They are designated as regional counsel? A. Yes, sir.

Q. Those lodges are by states? A. I am not sure.

Q. You do have the Brotherhood of Railroad Trainmen lawyers in Atlanta? A. Yes, sir.

Q. Lewis & Lewis? A. I think so.

Q. You have known them before? A. Yes.

Q. They have handled things for the lodge, haven't they?

A. Not for the lodge. They might have handled some for the members.

Q. In your capacity as local chairman you have received literature from them, haven't you? A. I don't receive it, the secretary receives it. I have heard it read.

Q. Signed by Lewis & Lewis, regional counsel, Atlanta, Georgia, isn't that true? A. I suppose—

Q. Do you know a lawyer in Birmingham who is regional counsel? A. I don't know him personally.

Q. You have never been associated with him? A. No, sir.

Q. Ever had any correspondence from him? A. No, sir.

Q. You have never met him? A. No, sir.

Q. And the reason you haven't received any correspondence from him and the reason you haven't met him and the reason you are not sure who he is is because the regional counsel for people working for the Central of Georgia railroad living in Cedartown, Georgia, would be Lewis & Lewis in Atlanta, isn't that right? A. I don't understand the question.

Q. Isn't it true that the reason you, in your position as

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[fol. 1313] local chairman, have received no communication from this lawyer in Birmingham, the reason you have received no literature from him, the reason you have had no communication with him, the reason you haven't heard read in open lodge any communication from him, is because he is regional counsel for Alabama, and Lewis & Lewis is regional counsel for the state of Georgia, isn't that a fact? A. I suppose so.

Q. Lewis & Lewis handles any agreements of the Central of Georgia in the State of Georgia? A. I don't know.

Q. Mr. Griffin, you stated that you talked with Mrs. Queen and explained to the best of your ability her rights pertaining to her insurance and any pension pay that her husband was entitled to, or any rights under the union contract with the railroad, is that right? A. Yes, sir.

Q. And your duty was to do that as local chairman, to

the best of your ability, subject only to the contract, your duties only pertained to the contract between the Brotherhood of Railroad Trainmen and the railroad company? A. That's right.

Q. You didn't seek to advise her as to any lawsuit that she might have? A. No, sir.

Q. And at the time you told her that Mr. Byington would come to Cedartown and explain to her her rights, you had reference to her rights under the contract between the Brotherhood and the Central of Georgia railroad, isn't that correct? A. Yes, sir.

Q. You did not tell her that he would come to Cedartown to take her to a lawyer, did you? A. No, sir.

Q. Or propose that she go to a certain lawyer? A. No, sir.

Q. Or that he would show her photostatic copies of cancelled checks and settlements of a lawyer in Birmingham, in an attempt to get her to go to Birmingham, you didn't tell her that, did you? A. No, sir.

Q. That doesn't pertain to the contract between the railroad company and the Brotherhood, does it? A. Not that I know of.

Q. Mr. Griffin, you identified a rule No. 5, the ruling on general rule No. 5 pertaining to the duties of the general chairman? A. Yes, sir.

Q. Do you know whether or not that rule has been further clarified by the Brotherhood? A. That book was published—

Q. Do you know when that book was published? A. I

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[fol. 1314] think that's the new book, I am not positive. I believe there has been a convention of them since the boy was killed, and possibly there might have been a word or two changed. This was 1960.

Q. As far as you know there hasn't been any change in Rule 5? A. I was referring to Rule 5, one or two words may be changed, but as far as the meaning of the rule, it is the same.

Q. I hand you a document entitled "Grand Lodge Brotherhood of Railroad Trainmen." A. I don't recall having read one, I may have.

Q. Did you notice to whom it was addressed? A. Yes, sir.

Q. General chairmen and local chairmen? A. Yes.

Q. And you were local chairman on the date of that, were you not? A. Yes, in 1948.

Q. I hand you state's exhibit D—first, who is the president of the Brotherhood? A. W. T. Kennedy.

Q. Will you tell me whether you have ever seen the letter and the opinion that is attached to the letter, have you ever seen a letter of that type? A. I don't recall it. I possibly have but I don't recall it.

Q. It is signed by W. T. Kennedy as president? A. Yes.

Q. Attached to that I call your attention to an opinion by the Supreme Court of Illinois. Have you ever seen that part of the exhibit before? A. I probably have, I don't recall it. It don't ring the bell if I read it.

Q. That's a ruling, state's exhibit C, that is a directive or ruling from the president of the Brotherhood? A. It says it is a ruling.

Q. Do you recognize that as the type— A. That is the letterhead, it seems to be a ruling.

Re-direct examination.

Q. Mr. Griffin, in rule No. 5 it says on page 143, "When major personal injury or death cases are called to the attention of local or general chairmen, it becomes their duty to carry out the policy of the Brotherhood by informing the parties of the Brotherhood's facilities for investigating cases of this character, so that they can avail themselves of these facilities of the legal department if they choose to do so." Is that in effect now? A. Yes, sir.

Q. And that is correct? A. Yes.

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[fol. 1315] Q. Was the same rule in effect June 24, 1959, or July 4, 1959? A. Yes, sir.

Q. And was the rule in effect through September, 1959? A. Yes, sir.

Re-cross examination.

Q. This rule (indicating) was also in effect, wasn't it? A. I wouldn't know. That is the ruling of February 25,

1948. It could have been amended, I don't know; they have had a convention since that time.

Q. As far as you know, it is the same? A. As far as I know, it is.

Q. You don't have a later one? A. Not that I know of.

Q. To your knowledge it does not exist? A. No, sir.

Mr. Kilpatrick: We have a constitution which has two words changed. He has been attempting to show that there is some amendment. I will be glad to substitute this book in lieu of that book.

The Court: That is not the same constitution, it is later?

Mr. Kilpatrick: Yes, sir.

The Court: What is the date of that?

Mr. Kilpatrick: This is October 8, 1954.

The Court: Is there any objection to the substitution?

Mr. Winn: No, sir. It is not our contention that there has been any change in it.

The Court: You are substituting Rule 5 in the constitution of 1954 for the one that was originally introduced, 1960. Let the record show that there is no objection.

Mr. Kilpatrick: That is general rule 5, page 131 and 132.

Sol.-Gen.: I offer in evidence circular No. thirty-five one sixty-eight.

Mr. Kilpatrick: I don't see any particular relevance of this circular, dated February 25, 1948. The constitution puts that into effect in 1954, and even in 1960, I don't see the relevancy of it; it just encumbers the record.

Mr. Gammon: That is not a rule 5, but a ruling on rule 5. We bend over backward to let these gentlemen put in anything that they think will justify his conduct. I might state in my place that as far as we know, this ruling is in effect.

The Court: I will let it in.

[fol. 1316] PARKER WHITFIELD, sworn for the defendant, testified:

Q. You are Mr. Parker Whitfield? A. Yes, sir.

Q. Where do you live? A. 335 Moyes Street, Cedar-town.

Q. What kind of work do you do? A. I work for the Central of Georgia railroad.

Q. Do you recall the date of July 24, 1959? A. Yes, sir.

Q. What makes you recall that? A. Mr. Byington came by my house and asked me would I carry him and show him where Mrs. Queen lived.

Q. Are you or not a member of the Brotherhood of Railroad Trainmen? A. Yes, I am.

Q. And at that time did you or not hold an office with them? A. Yes, I did.

Q. What was that? A. President of the local lodge.

Q. What is the local lodge? A. 332.

Q. Does it have any other name? A. B. Grady Byington.

Q. Did you assist or go with Mr. Byington to see Mrs. Queen? A. I did.

Q. Do you recall about what time of day this was? A. It was in the afternoon.

Q. Do you recall the date? A. No, sir, I do not.

Q. It was sometime after the death of Mr. Queen, is that correct? A. Yes, it was.

Q. Now, where were you at the time Mr. Byington got in touch with you? A. I was at my home.

Q. Did he give you any reason why he wanted you to go with him? A. To show him where she lived.

Q. Do you know what business he had on that trip? A. He was going to see her about the death of her husband.

Q. And where did she live at that time? A. Out around Antioch.

Q. And you knew where she lived? A. I knew approximately, yes.

Q. And you went there with him, did you? A. Yes, I did.

Q. Now, did you hear him talk to Mrs. Queen? A. Yes, sir.

Q. And do you recall as to how he introduced himself?

A. He introduced himself as B. G. Byington, general chairman of the Brotherhood of Railroad Trainmen.

Q. Do you know what transpired after that, did you stay with him while he was visiting Mrs. Queen? A. Yes, I did.

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[fol. 1317] Q. What transpired next after he introduced himself? A. He advised her as to what she would be entitled to under the railroad retirement for her and her child.

Q. Do you recall whether or not Mr. Byington had a brief case with him? A. Yes, he did.

Q. Do you know whether or not he took it out? A. Yes.

Q. Do you recall him taking anything out of the brief case? A. No, sir, I do not.

Q. Did he open the brief case or not? A. I don't know.

Q. Do you recall anything else that he might have told Mrs. Queen? A. No, sir.

Q. Do you recall what time in the evening it was that you and Mr. Byington visited Mrs. Queen? A. No, sir, other than that it was in the afternoon.

Q. Do you recall the possible length of time that you were at Mrs. Queen's house? A. I would say about an hour, something like that.

Q. Mr. Whitfield, do you recall more specifically whether or not there was any discussion between Mr. Byington and Mrs. Queen about her claim against the railroad? A. I didn't hear anything about the claim.

Q. And did you or not stay in the presence of both of them during the entire visit? A. Yes, I did.

Cross examination.

Q. Mr. Byington did offer to take Mrs. Queen and her mother to Birmingham in an air-conditioned Cadillac?

A. He offered to carry them over there.

B. G. BYINGTON, sworn in his own behalf, testified:

Mr. Gammon: May I inquire whether or not the defense intends to subject him to cross-examination? I understand they have a right to do so or not?

Mr. Kilpatrick: We are not going to raise any objection to the cross-examination of this witness.

Q. Your name is B. Grady Byington? **A.** Yes, sir.

Q. You are the defendant in this case? **A.** I am, sir.

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[fol. 1318] **Q.** You realize that you have been charged with seeking out Mrs. Queen and urging her to file suit against the Central of Georgia railroad, you are aware of those alleged charges? **A.** I am aware of the charges, yes.

Q. Are you guilty of those charges or not? **A.** I am not guilty of those charges.

Q. Now, Mr. Byington, where do you live? **A.** Macon, Georgia.

Q. And with whom are you employed? **A.** The Brotherhood of Railroad Trainmen.

Q. What is your job with them? **A.** My title is general chairman, and as such it is my duty and responsibility to negotiate with management on working conditions and changes in rates of pay, or anything that pertains to working conditions; to investigate safety matters, handling those things with management and eliminate as much of the hazardous work as we possibly can, and to assist the members of our organization, or their dependents, where we can help them, and in cases of major personal injury, or where death claims occur, it is my responsibility and duty, under the constitution, that I will advise the employee in cases of injury, or in case of death the dependents of employees or members of our organization, as to their rights under the railroad retirement act, and things like that that we have put through national legislation, or assisted in doing, for the benefit of wives and children who may be left behind as a result, such as the case before this jury, and in doing that it is our duty to refer them and tell them that we do have available for them a staff of competent counsel, and as such there will be no cost to them for counsel.

Q. How long have you been in that job? A. I went on this job ten years ago or a little better.

Q. Do you know Mrs. Betty Ann Queen? A. I have met Mrs. Queen and talked to her, to the best of my memory, on two occasions precisely, that is, person to person, on the dates of July 4, 1959 and again on August 12, 1959. I have not, since August 12, seen or talked to Mrs. Betty Ann Queen Doeg until I saw her in this courthouse.

Q. Mr. Byington, I will ask you this question: Do you recall June 24, 1959? A. Yes, I do.

Q. What happened that day? A. I was involved in a

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[fol. 1319] mediation process in Savannah, along with some other organizations, with management, and the secretary and treasurer of the local lodge here in Cedartown called me late in the afternoon, as well as I remember, and advised me that Brother J. D. Queen had accidentally been killed that day. I asked Brother Griffin, who was the secretary and treasurer, to please order a floral offering for me personally. I knew the lodge would send one and I wanted to send one myself, which is customary when one of our members dies. I usually pay my respects, especially if I can't be at the funeral. I also asked him to see that the family was given my expressions of sympathy.

Q. Tell the jury when you first had contact with Mrs. Queen. A. To the best of my recollection and memory, and according to a record that I keep, this is a little book, the Providence Life Insurance Company gives me one every year, and for eight or ten years I have been keeping a little daily diary, and my records, according to the records that I made, and certainly I know that you will understand that I had no conception that anything would ever come up like this, I talked to Mrs. Queen for the first time on July 4, in the presence of Brother Parker Whitfield, who at that time was president of the lodge. It had been planned and discussed over the telephone that Brother Griffin would go with me out there, but because of his having been called to go to work on the railroad on that particular time when I got here, he was substituted for Brother Parker Whitfield, and he and I made the trip out to some place, I wouldn't know how to get back to it if I

had to today, but all I know is, you go toward Macon and turn left and go out some seven or eight or maybe nine miles, it seemed to me, and thereupon, on our arrival at the dwelling place where we knew Mrs. Queen was there, there was a lot of them sitting around, I wouldn't be able to identify positively any who were there, I couldn't contest as to the truthfulness of whether anyone that was mentioned was there or not, there were some people there. I had no secrets. I explained to Mrs. Queen that under the railroad retirement act she would be entitled to an annuity for the care and welfare of the child until the child reached the age of eighteen, and that she would further be entitled to an annuity for herself during the period that the child was yet under eighteen. At that time those benefits would become inactivated until she reached the age of 65, if she

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[fol. 1320] remained unmarried. If she did not elect to remain unmarried, I told her that she could get a lump sum settlement in lieu of waiting until age 65, and I gave her in generalities, to the very best of my ability, her rights under the railroad retirement act, and of course I expressed my sympathy for the bereavement that she had suffered and endured, and especially at a time when she was about to bear her first-born child.

Q. Did you receive an invitation for the second visit from Mrs. Queen? A. At the first conference that I had, or visit that I made to Mrs. Queen, she told me that the place they were living, and she told the truth, wasn't fit for a dog to live in and that she was going to move, and that she appreciated me coming up there, and I asked her, I says, "If you will just drop me a post card and let me know where you have moved to, after you have got over childbirth and have become reconciled as much as you can to the loss of your husband, I would like to talk with you again because I think you will be better."

Q. Did you again see her? A. Yes.

Q. And do you recall getting any correspondence from her? A. Yes, sir, I got two letters from her.

Q. I show you defendant's exhibit A and ask you if that is one of the letters you got from Mrs. Queen? A. Yes, sir, that was delivered at my office, it was received there,

and she says, "I have moved to the following address: 110 Park Street, Cedartown, Georgia, Mrs. Jimmy Queen."

Q. Now I show you defendant's exhibit B and ask you if you received that letter. A. Yes, sir, I received this letter from Mrs. Queen. It says, "Dear Mr. Byington: I would like for you to come and try to settle this with me without having to go and talking to the law, or having to go to court. I would like for you to come as soon as you can, because I need some money. Mrs. Betty Ann Queen."

Q. Did you go back to see Mrs. Queen after your first visit on July 4? A. Yes, sir.

Q. Do you recall when you went back to see her? A. Yes, sir, it was on August 12 I believe, I can tell you for sure, yes, on the morning of August 12 I left Atlanta, Georgia, at 11 o'clock A.M. I arrived at Cedartown at 1 o'clock P.M., and I have notes here, "Visited Mrs. J. D. Queen, spent the night, saw lots of the boys." Next morning I went to

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[fol. 1321] Brother Griffin's house and went over his books.

Q. Do you recall that you did what your memorandum says you did? A. Yes, sir.

Q. Now, in talking with Mrs. Queen do you recall what the discussion was on the second trip? A. Yes, sir. When she wrote me this letter about needing some money, they haven't submitted the other letter that I wrote her, I told her that it would be ill advised, or words to that extent, to discuss her financial affairs with anyone, other than some good reliable person, because it would probably fall upon the ears of management and would make it more difficult to reach an amicable settlement of the case that she had, and I cautioned her not to say anything about it.

Q. Did you or not take your brief case with you? A. Yes, sir.

Q. Do you ordinarily do that when you go on these trips? A. Yes, sir.

Q. I will ask you specifically, did you or not show her any checks or any settlement for damage suits? A. I have never had in my possession any photostatic checks or settlements made by any attorney in the United States of America, so help me God, therefore I could not have shown Mrs. Queen any photostatic checks that was settlements

derived from any suit or anything else that anybody ever had. I deny that emphatically and without any reservation.

Q. I will ask you this, were you welcome? A. I will tell you what did happen. While I was at Mrs. Queen's home, on the very first visit, somebody had done been there and tried to get her to sign a paper, so she told me, to give them the case, and had left with her some literature that I had never seen before. It was a re-publication of an orientation that our man in Cleveland, Steve Lush, made, who was our legal department head, about how people, you know, should look after themselves when they get these personal injuries, and all that stuff, way back, some several years ago, before ever I became an officer of the Brotherhood, and that was the first time I had ever seen that and I asked her would she give me that piece of paper, and she did, she gave it to me that very afternoon, and I kept it in her file. I disremember the date.

Q. I show you defendant's exhibit D and ask you if that is the printed pamphlet that you have spoken of, dated January 1947. A. Yes, sir, that is the pamphlet that she gave me at my request, because I never had seen one.

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[foi. 1322] Q. Do you know where she got that pamphlet? A. She said some person from Atlanta, and we named over a lot of people, including Tom Lewis, and that name didn't strike her, and finally the name Huey, Hulett or something of that sort was named, and it was my general understanding from her that that was the man and he I later learned was a lawyer from Atlanta, Georgia, that had been over here and had attempted to secure the case for himself.

Q. Did she tell you that he had left that document with her? A. Yes, sir, she did tell me that. I think Mrs. Queen will substantiate the fact that she gave me this at my request.

Q. Did she or not tell you at the time anything in regard to the Central of Georgia claim man discussing it with her on any occasion? A. I told Mrs. Queen that a thing like that shouldn't be—if the claim agent for the Central of Georgia knew that she was in dire need of financial assistance, it would certainly give them an inclination to be

harder to deal with to get the type of settlement that I thought she was entitled to for the loss of her husband, and which she would certainly need to educate that child that was born some two or three days after the father had gotten killed, and that she should think a long time and seek good counsel. I did offer to take Mrs. Queen and her mother to either Atlanta, Georgia, or to Birmingham, Alabama. I says, "We have in either place attorneys that are recognized by the Brotherhood as being capable attorneys who are dealing in this field of law ethics and handling law matters of this kind, and they are fully qualified," and when I said that, I had no disrespect for any member of the bar in any place, and I deny what I have heard here today, that I said that there wasn't a lawyer in Cedartown capable to handle the case. I deny and repudiate anybody's statement that I said that, because it is not for me to judge the capableness of somebody that I don't know.

Q. Is your job with the Brotherhood a full-time job? A. Yes, sir.

Q. And you are paid a salary for that job? A. Yes, sir.

Q. And are you allowed an expense account? A. Unlimited.

Q. Your salary is fairly good pay, isn't it? A. Well, my salary is \$783.94 per month I believe, I can tell you in just a minute, and I am allowed ordinarily—my salary is \$783.92 a month, that is what I am paid as a salary, and

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[fol. 1323] I am allowed \$15 a day for dining.

Q. Now, Mr. Byington, after you had talked— A. Let me modify and correct that. That's on the days that I am away from the office at Macon.

Q. Now, you have testified about seeing Mrs. Queen on the second occasion. Have you been to see her since then?

A. No, sir, I have not. I heard it testified here that I saw her in September. I was not in Cedartown, Georgia, during the month of September of the year 1959 on any date. I was in Cedartown, Georgia, in the year 1959 on March 21, 22, April 29, 30, May 1, 2, that was all before and prior to the accident. Following the accident I was here in Cedartown on July 4, 5, August 12, 13, October 4 and 5, and the last date was December 6.

Q. Mr. Byington, on the visits to Mrs. Queen that you have spoken of, did she or not show any interest in your presence, the explanation you had given her? A. Well, to me, Mrs. Queen, her mother and all present were very receptive and appreciative, and expressed themselves as appreciating my visit to them.

Q. Did they at any time tell you that they were tired of your coming there and didn't want to see you any more? A. No, sir.

Q. I will ask you specifically, did you tell Mrs. Queen that you would give her your pay check for the rest of your life if she would go to Alabama with you? A. I positively did not, and that is absolutely the most absurd thing I have ever heard uttered from human lips, and I will swear that before my God in Heaven.

Cross examination.

Q. I show you state's exhibits E and E-1, which are a letter and an envelope, and ask you if you wrote that letter and signed that letter and placed it in the mail, addressed to Mrs. J. D. Queen? A. Yes, I wrote that letter.

Q. Your signature appears there on it? A. Yes, sir.

Q. And this is the envelope in which you mailed that letter? A. I wouldn't positively swear that that's the envelope that I mailed that particular letter in. I did mail it in an envelope which would serve the same purpose, and the same type envelope.

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[fol. 1324] Q. It is typed with a typewriter, isn't it? A. Yes, sir.

Q. I understand you are chairman of the Brotherhood of Railroad Trainmen? A. Yes, sir. Your father is a member of this lodge right here, a charter member.

Q. You have been in that position for approximately ten years? A. Yes, sir, a little better.

Q. You have worked on the railroad for how long? A. I commenced my railroading career at the tender age of twelve years old, in 1923. I started off as a messenger boy.

Q. And as chairman of the Brotherhood you of course have certain duties, as has been brought out? A. Yes, sir.

Q. And those duties require or at least place the duty upon you or at least give you the privilege of contacting any member of your own craft who is injured, and advise them of their rights, is that correct, is that a fair statement? A. It is true that it has been the custom and practice, as I have been given to understand by my predecessors and everybody else, that that was the general way of handling things.

Q. It is your understanding that it is your duty to contact members of the Brotherhood of Railroad Trainmen who are injured, or if they are killed to contact their families and advise them of their rights? A. When these matters are brought to my attention, yes. I don't go out to seek out those things; let's get the record straight. I haven't sought out anybody. Any time I go, they come to me or ask me. Now, I have been asked by a lot of people, sometimes that were not even members of this organization, just like anybody else will, you will meet a friend on the street and he may ask you about a certain thing if he has been involved in something, and you will freely give him your advice if you think you are capable to do that, and certainly I think that when we are asked by some people to take away the right of a citizen who tries to live right, to say things like I have said in this case, if those rights are to be denied the citizenry of the United States of America, we should take down the Stars and Stripes and put up Nikita Khrushchev's banner.

The Court: Don't make a speech; just answer the question.

The Witness: I am sorry.

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[fol. 1325] Q. Going back to my question, I believe we lost it, is it not your understanding that it is your duty to contact members of your organization who are injured in the line of duty, or the families of those who have lost their lives, to explain their rights? A. When these matters are brought to my attention, yes, sir.

Q. That is a fair statement? A. Yes, sir.

Q. The Brotherhood of Railroad Trainmen, what does that include? A. The word "trainman" would imply and

be understood to mean by our constitution any person that was a member, such as a baggage master, brakenamn, conductor, flagman, switchman, yard foreman, yard conductor, road conductor.

Q. I understand you said just a few moments ago that when others outside of your craft requested information from you, that you freely gave it? A. Well, just as a matter of—no more than if anyone asked me about something, certainly I wouldn't be hesitant to talk with anyone. I think we have that right under our freedom of speech.

Q. You are free to give of your knowledge? A. The happiest moments of my life is when I think I am helping some other person.

Q. You of course do not seek out anyone in any other crafts, do you? You don't go to see people in other crafts when they are injured or lose their lives, that is not a part of your duties, is it? A. I don't seek out anyone, but by circumstances that might come about, it might be by various reasons I am placed in a position that I would be asked information or give information.

Q. Let's be a little more direct about it, Mr. Byington. You know Mr. J. D. Stewart, who lives here in Cedartown?

A. Yes, I know the name and I think I would know the man if I saw him.

Q. Did he ever ask you for any help? A. As my memory serves me, I did have a discussion with him while he was a patient at the Central of Georgia Hospital.

Q. You went to see him, didn't you? A. No, sir, not precisely. Every time I am in Savannah, Georgia I visit every room in the hospital where we have got employees, whether they are trainmen or not.

Q. He is a member of the carmen's union and not a member of the Brotherhood of Railroad Trainmen, isn't he?

A. He says he has been knowing me all my life, and I always make a list when I go in there of everybody that I

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[fol. 1326] know, and I try to go around and see them all. I am on the hospital committee, and I have numerous complaints where the employees—we have a company hospital and we pay \$7.68 a month for it—

Q. May I interrupt you? Would you answer my question, did J. D. Stewart ask you for any help? A. I think we had a conversation.

Q. You do not wish to answer that question? You went to see J. D. Stewart, didn't you? A. I saw J. D. Stewart while I was there visiting other people at the Central of Georgia Hospital.

Q. And you proposed to him—he was injured at that time, wasn't he? He was injured on the job, wasn't he? A. Yes, I think he was.

Q. He was still in the hospital at Savannah, Georgia, that was some six or seven weeks after the accident? A. I don't know how long it was after the accident.

Mr. Kilpatrick: I don't know what he is getting at. (Objection made privately to the court.)

The Court: I will allow him to cross him. Go ahead.

Q. Mr. Byington, let's boil it down. Isn't it true that you went to see J. D. Stewart, who is a carman employed by the Central of Georgia railroad, who is not a member of the Brotherhood of Railroad Trainmen, after he had been injured on the job, and while he was a patient at the Central of Georgia Hospital at Savannah, Georgia, did you not go to see him and did you not ask him to let you take him to Birmingham and that he employ Al Rives to represent him, approximately the same state of facts as this young lady has testified to from the witness stand today, is that not true? A. I did not go to the Central of Georgia Hospital for the precise purpose to make a visit to Mr. J. D. Stewart. It was by coincidence that while I was making a routine visit at the hospital, I did discuss Mr. Queen's matter with him, I mean Mr. Stewart's, Mr. Stewart's matter, J. D. Stewart. I could not on oath say whether he broached the conversation about his injury, or whether I did, but a conversation was engaged in, and there was some mention about it and I will tell you this, I think that I even gave him one of my cards, I think he asked me what that lawyer's name was and I believe I wrote it on the back of my card, one of my business cards. I didn't go there to urge him, because, listen, I have got all

[fol. 1327] I can do to attend to the affairs of the Brotherhood of Railroad Trainmen, and I am paid well enough for it.

Q. But you did leave your card with him? A. Yes, sir, I have left my card with a lot of people.

Q. And you wrote Al Rives' name on the back of it? A. I don't deny that, I think I did.

Q. Mr. Byington, you said you did offer to take this lady and her mother to Birmingham? A. That is true and correct, every syllable.

Q. And if you took them to Birmingham it was to see Al Rives, wasn't it? A. Yes, sir.

Q. And you were to pay the expenses? A. No, sir. The Brotherhood of Railroad Trainmen general grievance committee of the Central of Georgia railroad would pay them, they would reimburse me for any expense I had in connection with carrying them over there.

Q. And Al Rives would pay you for bringing them, wouldn't he? A. That's a lie. Al Rives has never paid me one nickel, nor has any other lawyer paid me a nickel.

Q. You deny that you told this lady that you would let her have money to live on? A. I certainly do deny it, because I don't have that kind of money, because the notes on that Cadillac keeps me busy.

Q. Al Rives has that kind of money, doesn't he? A. I don't know what Al has got, I haven't asked him.

Q. You are on a first-name basis with him, aren't you, Al and Grady? A. I don't quite understand what you mean.

Q. You call him Al, don't you? A. Yes, he belongs to the Brotherhood of Railroad Trainmen. He is a fraternal brother.

Q. And he has that kind of money? A. I don't know what he has got, I don't know whether he has got one thousand dollars or one hundred thousand or one million.

Q. Have you talked to him about this case? A. Yes, sir, I have talked to him about it.

Q. Is he over here? A. No, he is not.

Q. Is he in Alabama? A. I don't know where he is.

Q. As far as you know he is in Alabama, isn't he? A.

I don't know where he is; he could be in Kalamazoo for all I know.

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[fol. 1328] Q. He is certainly not in the state of Georgia, is he? A. No, I don't know where he is. He would have been here if I had insisted on him to come, but I told him that I believed the preponderance of right would prevail, and I had no fear of facing the jury.

Q. Let me ask you this: You testified on direct examination that you told this lady not to do anything until she had had I believe you phrased it as competent counsel from some reliable person, I believe that's what you said? A. I can't from memory remember the exact language that I used in that letter.

Q. I am not speaking of the letter, I am speaking of your direct examination, a few minutes ago, I believe you told Mr. Kilpatrick in your direct examination that you told her that she wasn't to do anything until she had competent counsel from some reliable person? A. That's about right.

Q. And that good reliable person was you, wasn't it? A. No, sir, that's above my ability, because I am not in the law profession.

Q. May I quote this to you: You wrote this letter? A. Yes.

Q. "In all probability you will receive some visitation"—
A. Read it all, don't digress it so that the people will get—

The Court: Wait just a moment, Mr. Byington, let counsel ask the question. Go ahead.

Q. "In all probability you will receive some visitation from company representatives who claim to be very sympathetic and who may offer a settlement that they claim to be proper and reasonable. Also, there are chances that attorneys of the legal profession who have heard of the case may offer their services to you, and in this respect may I suggest that no consideration be given them, or at least no statements by you, until you have had the explanation as to your rights that I plan to bring you in person."

A. That is true and correct, because I wanted to explain, as I did, that under the Federal Employees Liability Act,

which railroad employees come under, they don't come under workmen's compensation rules, and because of the hazard occupation, Congress, an enactment of Congress, made that law, because there were certain things, safety devices and all that stuff, that if it could be proven that the carrier had failed to comply with, it would certainly add weight to her case.

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[fol. 1329] Q. Mr. Byington, who is the regional counsel for the Brotherhood of Railroad Trainmen for the state of Georgia? A. Again, I would like to say that with respect to the state of Georgia, it is not, as you put it earlier today, if it is it is not my understanding, these people have a right to go to any lawyer they want to, whether he is a member of the Brotherhood or not.

Mr. Gammon: I would like to object to the answer as not responsive. I asked the question who was regional counsel for the state of Georgia.

The Witness: There is no direct lawyer who is regional counsel for the state of Georgia exclusively, because those people who are regional counsel, there are many times that the one that you say is regional counsel for the Brotherhood, he handles claims for Florida, North Carolina, South Carolina, or anywhere else. We don't have 48 recognized counsel, or 50 as the states are now.

The Court: What you are saying is that Georgia is not a region, is that your answer?

The Witness: Not Georgia in itself.

Q. There is no other designated regional counsel in the state of Georgia except Lewis & Lewis of Atlanta, Georgia, is there? A. I am trying to think. Our attorney who is present with me now is not shown in the directory, but he is appointed by the Brotherhood of Railroad Trainmen. He handles a lot of stuff for the Brotherhood.

Q. Is he a regional counsel? A. Well, no, he is not a regional counsel.

Q. Mr. Byington, do you know Mr. Jack Thomas? A. If it's the Thomas I am thinking of, I think I know him.

Q. He is a former switchman of the Seaboard Air Line Railway, of Savannah, Georgia? A. That is true and correct.

Q. He was injured in an accident on the Seaboard on March 1, 1955? A. I don't remember the date.

Q. Did you not contact him and propose to him that he go to Al Rives in Birmingham, Alabama, for his case, and is he not a member of another organization and not a member of the Brotherhood of Railroad Trainmen? A. He is a member of the Brotherhood of Railroad Trainmen.

Q. On the Central of Georgia? A. No, on the Seaboard.

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[fol. 1330] You said he wasn't a member of the Brotherhood. He is a member of the Brotherhood of Railroad Trainmen, but an engineer on the Central of Georgia railroad brought that man to my room in the Manger Hotel, and talked to me, and I told him to go see Tom Lewis in Atlanta, or to go to Birmingham, Alabama, either one he wanted to do.

Q. Then it is your habit to refer people to lawyers, isn't it? A. Listen, they ask me for advice. I don't know of any law to preclude me from telling a man, if he asks me, comes to my hotel, I had never seen the man before in my life. He had a brother that was a switchman that worked for the Central of Georgia, and I knew him, but I had never before, until the day that man came to my room, seen him before, and I didn't go out hunting him or seeking him.

Q. Do you know a man by the name of E. P. Robinson? A. Yes, sir.

Q. He resides in Eufala, Alabama? A. Yes, sir. He is a member of the Brotherhood of Railroad Trainmen and belongs to the lodge in Macon, Georgia, John B. Gordon Lodge No. 376.

Q. And you took him to Birmingham? A. I positively did not. I met him in Birmingham.

Q. You went with him to the lawyer's office? A. I did. He is a member of the Brotherhood. At the same time I went with Mr. E. C. Robinson I carried Mr. Frank Gatty up there also, who also had a personal injury, and he went along with us. They asked me to meet them over there and

go with them, and I think it was my responsibility to do it, and they both went there.

Q. I believe you say these are the only two letters that you received from Mrs. Betty Ann Queen Doeg? A. If there were other letters they must have gotten misplaced at the office.

Q. These were received? A. Yes, they were received in my office.

Q. Do you recall the testimony that you told her that you would be the one to pay her? A. I recall her testimony, but she either misunderstood what I told her, or else she prevaricated on the facts.

Q. This letter of July 27 which you read a few moments ago, "I would like for you to come and settle this with me without having to go and talking to the law or having to go to court, I would like for you to come as soon as you can, because I need some money." Isn't that a fair response to your statement, "I will be the one to pay you"? A. I

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[fol. 1331] would not consider it as such, because she was in financial need of money, I think she meant without going to see a lawyer and just left out the "-er" on there, because she spelled "need," "kneed," "kneeds" some money, and I remember that because I remember my secretary saying, "Look how she spells 'need.'"

Q. It was obvious that she expected you to pay her some money though, wasn't it? A. No, sir, I wouldn't construe it as such. If she had any such idea in the back of her head, she sure was wrong, because I ain't never paid none of them. I have got all I can do to take care of myself.

Q. You wrote this letter (presenting), didn't you, Mr. Byington? A. Yes, sir.

Q. Is there anything in either of those letters which would indicate to you that she wanted you to take her to Birmingham? A. That would be purely an assumption on my part to say that the letter did, yes, it would be an assumption.

Q. It would be a presumption? A. Yes.

Q. Why did you write her, "Dear Mrs. Queen: Circumstances unforeseen have prevented my making the trip

to Cedartown and Birmingham this week, but in all probability it will be convenient for me to make the trip either Friday or Saturday of next week if convenient to you. Would appreciate advice from you by return mail if next week will be convenient for you to make the trip for the purpose of having an appointment with Mr. Al Rives, our attorney in Birmingham"? A. I don't deny writing that letter. Look at the date of it and the date of hers.

Recess until 9 A.M., July 12, 1961.

GERALD F. GRIFFIN, sworn for the defendant, testified:

Q. Where do you live? A. I live at 324 Girard Avenue.

Q. What is your occupation? A. I am a conductor and trainman on the Central of Georgia railroad.

Q. How long have you been working with them? A. Almost 17 years.

Q. Are you a member of the Brotherhood of Railroad Trainmen? A. Yes, sir.

Q. Do you hold an office with that group? A. Yes, sir.

Q. What is that office? A. I am secretary and treasurer.

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[fol. 1332] Q. Do you recall June 24, 1959? A. Yes, sir.

Q. What do you recall about that? A. That was the day Jimmy Queen was killed in Summerville, Georgia.

Q. Was he an employee of the Central of Georgia railroad? A. Yes, he was a trainman.

Q. Was he or not a member of the Brotherhood? A. Yes, he was.

Q. How long had he been a member, do you recall? A. No, I don't, not exactly.

Q. Now, what are some of the duties that you have as secretary of the Brotherhood in cases of the death or injury of a person? A. I make out a report and send a copy of it to the general chairman, and the main lodge in Cleveland, Ohio.

Q. Who is the general chairman? A. Mr. Byington.

Q. Is this (presenting) a copy of the report that you made in this case? A. Yes, it is.

Q. And it just merely sets out the name of the employee and the fact of his death and a copy had been sent to Mr. Byington, is that correct? A. That is correct.

Q. Now, after Mr. Queen's death had been found out by you, what did you do besides make the report? A. Well, after I found out about it I was called from the office and asked to notify his wife, and, knowing her condition at the time, I didn't go directly to her, I contacted her brother in Cedartown at a service station and got him to go and tell her.

Q. That was Mrs. Queen? A. Yes, and that night I called the general chairman, which it is customary to do in cases of injury, and notified him of the death of Jimmy. He was in Savannah, Georgia, and he said he was sorry he couldn't come up, and to send flowers in his behalf when I ordered flowers from the lodge.

Q. Does he usually attend the funeral of a deceased? A. Yes, as far as I know.

Q. Did you later talk to Mrs. Queen? A. No, I don't think I ever talked to her, I don't remember talking to her.

Q. Do you know whether or not Mr. Byington came later to see Mrs. Queen? A. No—well, I didn't see him myself, Parker Whitfield came up later after the funeral, I didn't see him myself.

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[fol. 1333] Q. The Brotherhood, is that the bargaining agent for the employees of the Central of Georgia railroad between the employees and the railroad? A. Yes, sir.

Cross examination.

Q. Do you know an employee of the Central of Georgia by the name of J. D. Stewart? A. Yes, sir.

Q. What is his job? A. He is a car inspector.

Q. He is not a member of the Brotherhood of Railroad Trainmen? A. No, sir.

Mr. Kilpatrick: I tender in evidence defendant's exhibits A, B, C and whatever the next numbers are. I would like to introduce the two letters and the Constitution of the Brotherhood, and the report of the death of Mr. Queen.

Sol-Gen.: No objection.

Defendant rests.

J. D. STEWART, sworn for the state, testified:

Q. You are Mr. J. D. Stewart? A. Yes, sir.

Q. Where do you live? A. I live on Franklin Street.

Q. Is that here in Cedartown? A. Yes, it is outside the city.

Q. Where are you employed? A. I am a carman, Central of Georgia railroad, Chattanooga, Tennessee.

Q. How long have you been employed by the Central of Georgia? A. I have been with the Central the last time since 1945.

Q. Where has been your place of employment for the past several years? A. Well, to go back, I first started in Macon and worked there until '49, then I came to Cedartown and worked until they shut the shop down, and I was in an automobile accident and took off for a while and went back to work and they transferred me to Chattanooga, Tennessee.

Q. How long have you been working in Tennessee? A. I don't recall exactly.

Q. Were you injured on duty with the Central of Georgia railroad? A. Yes, sir.

Mr. Kilpatrick: I fail to see any relevancy in the questioning of this witness on rebuttal. They have put in their evidence; and they are entitled to rebuttal testimony.

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[fol. 1334] money to any of the witnesses that the defendant has put up, but in this case I assume what he intends to do is to attempt to show contacts that Mr. Byington made with other people. I submit that there is a charge made here against the defendant, one charge; he is not charged with everything that may have occurred from the time he began work with the Brotherhood. We submit that any question or any evidence in connection with any act, the questions he is asking, and the questions he asked yesterday, was intended purely to intimate to the jury that he had sought other people out. We request the court to strike all the evidence of yesterday that was put in regarding any contact with any other person, and to disallow any further proof in connection with that, because certainly

no person is charged—the charge against Mr. Byington is seeking out Mrs. Queen and urging her to bring suit against the railroad, and we are not prepared to come up here today and bring in all these defenses. We are prepared to defend the charge that is on trial. We contend that all this testimony, the questions Mr. Gammon has asked, are simply for the purpose of intimating to the jury that Mr. Byington has contacted not only Mrs. Queen but other people, and I think that alone is subject for a mistrial and I ask the court for a mistrial.

The Court: I overrule the motion for a mistrial, and overrule the motion to exclude the testimony.

Q. Do you remember the question?

The Court: He asked you if you were injured while on duty with the railroad.

The Witness: On May 23, 1959.

Q. Where were you injured? A. At the Chattanooga yard, at somewhere around 10 o'clock at night.

Q. Were you placed in a hospital? A. Yes, sir.

Q. Where were you placed in a hospital? A. At the Erlanger Hospital.

Q. That is located where? A. In Chattanooga.

Q. How long did you stay in the hospital? A. About a week or a little more, I am not positive, because I didn't keep up with the dates.

The Court: I don't think that is relevant. Get down to the point you want to prove. It doesn't make any difference how long he stayed in the hospital.

Q. Were you transferred to the hospital in Savannah, Georgia? A. Yes, sir.

Q. While you were in the hospital in Savannah did you receive a visit from Mr. Byington?

Mr. Kilpatrick: I submit that is a leading question.

Mr. Gammon: I withdraw it.

[fol. 1335] Q. Do you recall a visit from any other person besides your relatives while you were in the hospital? A.

Grady Byington came to see me about two weeks, three or four weeks, I am not positive about the dates, he came to see me and talked with me and asked me if I was going to get a lawyer, to let him have the case, that he could get me a lot of money. I told him I had no intention of hiring a lawyer.

Q. Did you know Mr. Byington was coming? A. No, sir.

Q. Did you invite him? A. No, sir.

Q. Did he mention any particular attorney? A. The only thing he mentioned was a lawyer in Birmingham, I didn't get his name.

Q. Did he leave anything with you? A. Yes, he left me his card and told me if I decided to get a lawyer, to let him handle the case.

Q. Did he put anything on that card? A. I don't think so, I am not positive, I didn't pay any attention to the card except stuck it in my pocket.

Q. Who else was present when this conversation took place? A. My wife.

Q. Where is your wife today? A. She is at home sick. She just got out of the hospital yesterday afternoon.

Q. You are not a member of the Brotherhood of Railroad Trainmen? A. No, sir.

Cross examination.

Mr. Kilpatrick: Any cross-examination of this witness of course is subject to our objection to his testimony being in this case. We will proceed to the cross-examination subject to those objections.

Q. How long have you known Mr. Byington? A. I have known him a good many years.

Q. In fact you and he lived in the same town, is that correct? A. Yes.

Q. You went to the same school? A. Yes.

Q. And you probably went to work for the railroad about the same time, is that correct? A. I think I went to work before he did, in 1923, to be exact.

Q. Now, you were in the hospital, that was the hospital of the Central of Georgia railroad? A. Yes, sir.

Q. You were a member of one of the craft unions of the

[fol. 1336] railroad, you understand there are more than one craft? A. That's right.

Q. In fact there are some 21 of them, and did you know whether or not Mr. Byington was on the hospital committee of the Railroad Trainmen at that time? A. No, sir.

Q. You have had numbers of contacts with Mr. Byington during the years of your employment, haven't you? A. Very few.

Q. I will ask you this, did you see him in the hospital other than on this occasion that you spoke of? A. Not before then, no, sir.

Q. Were you in a room by yourself, or was there someone with you? A. I believe I was in the room with someone else.

Q. But you don't recall who that was? A. No, I couldn't tell you who it was.

Q. How long were you in the hospital? A. Off and on about a year.

Q. Isn't it true that Mr. Byington met you in the hall on the occasion that you speak of, when he first met you you were in the hall and he run into you and spoke to you? A. No, sir, the first time he came in the room.

Q. And what did he say to you? A. He spoke to me, just ordinarily.

Q. You had known him a long time? A. Yes.

Q. Had you been contacted by the claim agent of the Central of Georgia railroad after that date? A. Yes, sir.

Q. And you were questioned about the fact of whether or not Mr. Byington had been in to speak to you, hadn't you? A. At that time no, sir, nobody had ever questioned me about Mr. Byington.

Q. The claim agent for the railroad didn't ask you any questions as to whether or not Mr. Byington had been to visit you in the hospital? A. No, sir, not then.

Q. It was a great deal later, but they did ask you about it? A. Not at the hospital.

Q. But they did ask you later that day? A. No, I am not positive.

Q. In fact you were making a claim against the railroad at this time, were you not? A. I had no intention

whatsoever about a claim against the railroad; the agents nor none of them hadn't contacted me at all.

Q. You did make a claim against the railroad, did you not? A. No, sir.

Q. You did not make a claim against the railroad? A. No, sir, I didn't have any grounds to make one.

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[fol. 1337] Q. Now, did a claim man from the Association of American Railroads come and get a statement from you about this? A. Well, no. The only man that ever came to see me was a Mr. Eaves.

Q. You know Mr. Eaves? A. Yes, sir.

Q. Do you know with whom he worked? A. I knew later.

Q. He is with the Association of American Railroads, is that right? A. I reckon so.

Q. And he took your statement? A. Yes.

Q. And in that statement you told about what you have told now? A. Yes.

Q. That Mr. Byington had been trying to get you to file a lawsuit? A. That's right.

Q. And he took your wife's statement? A. That's right, in my home.

State rests.

Mr. Kilpatrick: At this time the defendant moves for a directed verdict of not guilty in his favor, on this evidence. The defendant has prepared a written motion setting out grounds one through five. I will just say at this time the defendant does not feel that there is sufficient evidence in this case to go to the jury, because the charge in the case is that the defendant is charged with seeking out Mrs. Queen and urging her to pursue a suit in tort against the Central of Georgia Railroad. We contend that there is barely if any evidence to support that contention of the state. The burden is on the state to prove the case as laid, and we contend that that is not the case here, and we move for a directed verdict in favor of the defendant.

The Court: I overrule the motion.

During Mr. Winn's argument to the jury,

Mr. Kilpatrick: I object to the argument as to how an indictment is brought and the fact that the grand jury has charge of that. It is not evidence and the indictment itself it not evidence, and there is no conclusion to be drawn from it as to how it came into court.

The Court: I sustain the objection.

During Mr. Gammon's argument to the jury,

Mr. Kilpatrick: I object to that argument. This defendant is not charged with anything in connection with Mr. Rives. I think he ought to be confined to the evidence.

The Court: I sustain the objection. Confine yourself to the evidence, direct and cross-examination.

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[fol. 1338] Later during Mr. Gammon's argument to the jury,

Mr. Sell: Counsel keeps mentioning Mr. Stewart. That is highly prejudicial argument and highly improper, and I move the court for a mistrial.

The Court: I overrule the motion for a mistrial.

I, T. L. Williams, official reporter for the City Court of Polk County, certify that the foregoing 49 pages are an exact copy, made by the same stroke of the typewriter, of a transcript of the evidence adduced on the trial of the case stated on the first page hereof.

This 6th day of October, A.D. 1961.

/s/ T. L. WILLIAMS
Official Reporter, City
Court of Polk County.

GEORGIA, POLK COUNTY.

I, F. L. HAGAN, Clerk of the City Court of Polk County Georgia, the same being a Court of Record and having a seal, hereby certify that the Hon. Olin T. Flournoy is the duly elected, qualified and presiding Judge of the City Court of Polk County, Georgia.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office, this the 6th day of October, 1961.

/s/ F. L. HAGAN
Clerk of the City Court of Polk County, Ga.

[SEAL]

GEORGIA, POLK COUNTY.

I, OLIN T. FLOURNOY, the duly elected, qualified and presiding Judge of the City Court of Polk County, Georgia, hereby certify that F. L. Hagan is the duly elected, qualified and serving in his official capacity as CLERK of the City Court of Polk County, Georgia.

IN WITNESS WHEREOF, I have hereunto set my hand and seal, this the 6th day of October, 1961.

/s/ OLIN T. FLOURNOY
Judge City Court of Polk County, Ga.

[SEAL]

[fol. 1339]

GEORGIA, POLK COUNTY.

I, OLIN T. FLOURNOY, Judge of the City Court of Polk County, Georgia, being duly elected and qualified and the presiding Judge of said County, hereby certify that T. L. Williams is the official Court Reporter of the City Court

of Polk County, Georgia, and serves as such under appointment of the Judge of said Court.

IN WITNESS WHEREOF, I have hereunto set my hand and official signature, this the 6th day of October, 1961.

/s/ OLIN T. FLOURNOY
Judge City Court of Polk County, Georgia.

[SEAL]

GEORGIA, POLK COUNTY.

I, F. L. HAGAN, Clerk of the City Court of Polk County, Georgia, the same being a Court of Record and having a seal, hereby certify that T. L. Williams is the official court reporter of the City Court of Polk County, Georgia, and now is and has been, for some forty years.

IN WITNESS WHEREOF, I have hereunto set my hand and seal, this the 6th day of October, 1961.

/s/ F. L. HAGAN
Clerk of the City Court of Polk Co., Georgia.

[fol. 1340]

SUPREME COURT OF THE UNITED STATES

No. 583, October Term, 1962

BROTHERHOOD OF RAILROAD TRAINMEN, Petitioner,

VS.

VIRGINIA ex rel. VIRGINIA STATE BAR

ORDER ALLOWING CERTIORARI—February 18, 1963

The petition herein for a writ of certiorari to the Supreme Court of Appeals of the Commonwealth of Virginia is granted.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

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SUPREME COURT, U. S.

In The

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1963

U.S. Supreme Court, U.S.

FILED

NOV '9 1962

JOHN F. DAVIS, CLERK

No. 34

BROTHERHOOD OF RAILROAD TRAINMEN,
Petitioner,

v.

COMMONWEALTH OF VIRGINIA, ex rel Virginia
State Bar,
Defendant.

**PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF APPEALS
OF VIRGINIA
AND APPENDIX**

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**In The
SUPREME COURT OF THE UNITED STATES**

OCTOBER TERM, 1962

No.

BROTHERHOOD OF RAILROAD TRAINMEN,
Petitioner,

v.

COMMONWEALTH OF VIRGINIA, ex rel Virginia
State Bar,
Defendant.

**PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF APPEALS
OF VIRGINIA**

*To The Honorable Chief Justice And Associate Justices
Of The Supreme Court Of The United States:*

Petitioner prays that a writ of certiorari issue to review the judgment of the Supreme Court of Appeals of Virginia, entered in this cause on 31st day of August, 1962 (see appendix p. 1)

No opinion was rendered by either the Supreme Court of Appeals of the Commonwealth of Virginia, or the Chancery Court of the City of Richmond, Virginia, other than the findings of fact by the Chancery Court of the City of Richmond, Virginia, incorporated in its decree of January 29, 1962. (see appendix p. 1-6)

JURISDICTION

The judgment of the Chancery Court of the City of Richmond, Virginia, was entered on January 29, 1962. On June 12, 1962, the Supreme Court of Appeals of the Commonwealth of Virginia rendered a decision denying the petitioner an appeal. The petitioner filed its petition for rehearing which was denied on the 31st day of August, 1962. (see appendix p. 6-7)

The jurisdiction of this Court is evoked under 28 U.S.C.A. § 1257(3).

CONSTITUTIONAL PROVISIONS WITH FEDERAL AND STATE STATUTES INVOLVED, ALONG WITH RULES FOR INTEGRATING OF THE VIRGINIA STATE BAR, ADOPTED AND PROMULGATED BY THE SUPREME COURT OF APPEALS OF VIRGINIA, DEFINING THE PRACTICE OF LAW.

The constitutional provisions involved are those of the First and Fourteenth Amendments to the Constitution of the United States. (see appendix, p. 7)

The Federal Statute involved is the Federal Railway Labor Act (45 U.S.C.A. §§151-164) and the State Statutes

involved are §§54.48—54.51 and §54-83.1 of the Code of Virginia, 1950, as amended, with rules for integration of the State Bar, with amendments, January 11, 1960, Defining the Practice of Law, 201 Va. IXXXV. (see appendix, p. 8-15)

STATEMENT OF CASE

The Virginia State Bar filed its bill of complaint in the Chancery Court of the City of Richmond, Virginia, on June 29, 1959, against the Brotherhood of Railroad Trainmen, Bernard M. Savage, Attorney at Law, Baltimore, Maryland; who was not authorized to practice law in the Commonwealth of Virginia, and Norris W. Tingle, Baltimore, Maryland, Investigator for the Brotherhood of

Railroad Trainmen, and alleged, among other things, the following:

"5. The Brotherhood maintains what it calls a 'Legal Aid Department' which, while collecting information that is valuable to those who are interested in the welfare of railroad employees, also solicits business through the means of certain of its employees and members of its lodges for various attorneys at law throughout the United States which have been selected by the Legal Aid Department and designated by said department as Regional or Legal Counsel.

"6. The solicitation of business for Regional or Legal Counsel has been conducted in the following manner: when a lodge member is injured or killed in the course of his employment, he or his family or estate notifies his lodge and his lodge, acting through its secretary

or some other member, notifies the Legal Aid Department of the injury or death; the Legal Aid Department immediately notifies Regional or Legal Counsel of the injury or death; Regional or Legal Counsel, in turn, sends the Regional investigator, a person who is employed and paid by both Regional or Legal Counsel and by the Brotherhood, to investigate the happening; in many cases both the lodge to which the injured man belongs or to which the deceased belonged, acting through its officers and members and the Regional Investigator, advise the injured person or his family, or the family or estate of the deceased, that the claim against the injured or deceased member's employer should not be settled without consulting Regional or Legal Counsel; and the Regional Investigator then arranges for the injured party or family of the deceased to execute the necessary agreements retaining the services of Regional or Legal Counsel on forms which he carries with him.

"7. Regional and Legal Counsel handle any and all such matters on a contingent fee basis that is fixed and set by the Brotherhood through its Legal Aid Department, and, together with other Regional or Legal Counsel, he supports the Legal Aid Department by paying annually to the Legal Aid Department a sum assessed by said department, the amount of which is determined by the department by the use of a formula that takes into account the volume of fees collected by Regional or Legal Counsel from members of the Brotherhood, their families or estates. Regional or Legal Counsel further makes advances for the support and maintenance of injured Brotherhood members or the families of deceased members pending settlement of claims that he agrees to handle for them.

"8. The Brotherhood, Savage as Regional and Legal Counsel for an area which includes the entire Commonwealth of Virginia, and Tingle as Regional Investigator for the Commonwealth of Virginia have engaged in the practices hereinabove referred to and the complainant is advised are engaging in such practices in the Commonwealth of Virginia and in the City of Richmond.

"9. Your complainant charges that the practices hereinabove described constitute the unauthorized practice of law in the Commonwealth of Virginia by each of the defendants, the Brotherhood, Savage and Tingle." (see appendix, p. 16, 20)

The Brotherhood admitted in its answer that prior to April 1, 1959, Legal Counsel handled cases for injured members and estates of deceased members on a contingent fee basis, and further that Legal Counsel made contributions to the Department of Legal Counsel.

Mr. W. P. Kennedy, President of the Brotherhood, testified that after April 1, 1959, it eliminated the objectionable practices as alleged by the Virginia State Bar, because the Supreme Court of Illinois had determined the practices objectionable in a suit for declaratory judgment brought by the Brotherhood. (Kennedy dep. R-29, 34, 35, 36, 37, 38, 39) Mr. Kennedy further testified that the Brotherhood had a right to operate in Virginia along the lines suggested in the Illinois case. (Kennedy dep. R-151) Mr. Kennedy also testified specifically that after April 1, 1959, the Brotherhood paid all of the costs of operating the Department of Legal Counsel in other states, and had no agreement with Legal Counsel providing for the amount

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of fee to be charged its members, and testified that the Brotherhood was strictly complying in other states with the decision: IN RE: Brotherhood of Railroad Trainmen, 13 Ill (2d) 391. (see appendix, p. 20, 26)

Mr. W. P. Kennedy further testified that the Brotherhood no longer employed Regional Investigators in the United States, and neither had Regional Investigators, nor Legal Counsel, in the State of Virginia. (Kennedy dep. R-54)

The State Bar did not introduce any evidence to show the plan of operation by the Brotherhood in Virginia, prior or subsequent to the date of its suit. The Bar relied on records and decrees of various suits brought against Legal Counsel and the Brotherhood prior to April 1, 1959, in other states. In addition, the Bar took the depositions of witnesses of incidents arising in the States of California, Ohio, Illinois and others, and took testimony in open court of witnesses brought to Virginia from Nebraska and Georgia, as to what took place in those states prior to the institution of this suit.

In its amended answer, filed April 10, 1961, to the Bar's bill of complaint, and its motion to strike the evidence of the Bar, the Brotherhood alleged that the practices in which it was engaged in Virginia did not constitute the practice of law, and further it had a legal right to make available to its members or their families any information gathered as a result of its investigations, and in addition, it had the right to inform members to consult or employ attorneys for the purpose of protecting their legal rights, and that these rights were protected by the First and Fourteenth Amendments to the Federal Constitutions. (see appendix, p. 26, 28 for amended answer and motion)

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The motion to strike was overruled by order entered on January 23, 1962, and the final decree ignored the Federal Question raised by the answer and motion. (see appendix, p. 30) The same Federal questions were also raised by Assignment of Error in the Supreme Court of Appeals of Virginia. The Brotherhood also assigned as error the entry of the decree of January 29, 1962, which denied the Brotherhood the right to make certain recommendations to its members, the right being given it by virtue of the Federal Railway Act. (45 U.S.C.A. §§ 151-164)

Process was never served on Bernard W. Savage and Norris W. Tingle; therefore, the suit of the Virginia State Bar abated as to them.

THE QUESTIONS PRESENTED FOR REVIEW

(1) Whether the Brotherhood of Railroad Trainmen and its members have the right to make known to its members generally, and to injured members and their survivors in particular, first, the advisability of obtaining legal advice before making settlement of their claims, and second, the names of attorneys, who, in its and their opinion, have the capacity to handle such claims successfully, and whether this right is protected by the First and Fourteenth Amendments to the Constitution of the United States?

(2) Whether the Federal Railway Act, which authorizes the Brotherhood to represent its members generally and specifically to handle their "grievances", creates such an interest in the Brotherhood, that it has the right to make known to its members the advisability of obtaining legal advice and to make known the names of competent

counsel in connection with rights of members under the Federal Employers' Liability Act, notwithstanding any rule or doctrine of State law?

STATUTES INVOLVED:

The pertinent statutes and constitutional provisions are printed in the appendix, *infra*, pp. 35, 39 and 42.

SPECIFICATION OF ERRORS TO BE HEARD

The Supreme Court of Appeals of Virginia erred:

(1) In refusing to grant an appeal to the Brotherhood of Railroad Trainmen, and in refusing to hold that the Brotherhood of Railroad Trainmen, and its members have a right to make known to its members generally, and to injured members and their survivors in particular, first, the advisability of obtaining legal advice before making settlement of their claims, and second, the names of attorneys who, in its and their opinion have the capacity to handle such claims successfully, and that this right was protected by the First and Fourteenth Amendments to the Constitution of the United States against infringement by any State.

(2) In refusing the Brotherhood an appeal from the Chancery Court of the City of Richmond, Virginia, and refusing to hold that the Federal Railway Act, which authorizes the Brotherhood to represent its members generally and specifically to handle their "grievances", creates such an interest in the Brotherhood, that it has the right to make known to its members the advisability of obtaining legal advice.

and to make known the names of competent counsel in connection with rights of members under the Federal Employers' Liability Act, not withstanding any rule or doctrine of State law?

REASONS FOR GRANTING THE WRIT

The important question presented by this case is the Constitutional protection of the right of freedom of speech. The basic issue is whether the Brotherhood of Railroad Trainmen and its members, have the right to tell members who have been injured, and survivors of deceased members, to obtain legal advice before making settlement of their claims with their railroad employers, and further make known names of attorneys who have the capacity to handle successfully cases under the Federal Employers' Liability Act and Federal Safety Appliance Act.

The Chancery Court of the City of Richmond, Virginia, enjoined the Brotherhood, its officers, agents, servants, employees and its members:

“from holding out lawyers selected by it as the only approved lawyers to aid the members or their families; from informing any lawyer that an accident has occurred and furnishing the name and address of an injured or deceased member for the purpose of obtaining legal employment for such lawyer, or in any other manner soliciting or encouraging such legal employment of the selected lawyers; from stating or suggesting that such selected lawyers will defray expenses and make advances to clients pending settlement of claims; * * *; and from formulating and

putting into practice any plan, pattern or design, the result of which is to channel legal employment to any particular lawyer or group of lawyers; * *." (Emphasis supplied)

W. P. Kennedy, President of the Brotherhood, testified in part as follows: (R-35, 36, 37 and 38):

"Q. Yes. Well, now, I interrupted you when I asked you to tell me how they differ.

"A. All right. One. The BRT may maintain a staff to investigate injuries to its members. We maintain that staff. That staff is maintained in Cleveland, Ohio.

"The BRT may so conduct investigations that results are of maximum value to members in prosecuting their claims.

"The BRT may make reports of investigations available to the injured man or his survivors. In other words, if I send a man out from my office to make an investigation of a serious accident, there is nothing to stop me from sending a copy of that report to the injured man or his survivors.

"4. Investigations to be financed by the BRT. In other words, the investigations will be financed by the Brotherhood of Railroad Trainmen as a labor organization, which we are doing now.

"5. The B. of R. T. may make known to the injured members and their survivors, first, the advisability of obtaining legal advice before making a settlement; and, second, the names of attorneys who have the capacity to handle such complaints successfully.

"Now, here is what we understand the B. of R. T. may not do.

"1. The BRT employees may not carry contracts for employment of any attorney. And I have prohibited any individual of this Brotherhood from carrying a contract for any attorney.

"2. May not carry photostats of any settlement checks. And I prohibited them from carrying any kind of a photograph of any settlement previously made.

"3. No financial connection of any kind between the BRT and any lawyer is permissible. No connections whatsoever. There isn't an attorney representing our Brotherhood in the former Legal Aid Department or in the present Counsel that has any financial connection with the organization.

"4. No lawyer can properly pay any amount whatsoever to the BRT or any of its departments, officers, or members as compensation, reimbursement of expenses, or gratuity in connection with the procurement of any case.

"5. The BRT cannot fix the fees to be charged for the services to any of its members.

* * *

"Q. Well, now, Mr. Kennedy, you agree, then, that if any member of the Brotherhood or any of the investigators sent out by you go any point further than merely suggesting the name of a lawyer, then he is in violation of the Illinois decree?

"A. He would have that right under this to suggest—

"Q. That isn't answering my question, sir, I don't believe that answers my question.

"A. He would have the right to name the attorney who would have the capacity, in his opinion, to handle the claim successfully in any particular State.

"Q. And that's as far as he could go under that letter?

"A. That is right.

"Q. Now, if he undertakes to take that man to the attorney, he would be doing wrong, wouldn't he?

"A. That is right. He would have no right to take him to the attorney.

"Q. And he would have no right to try to persuade him to go to that particular attorney?

"A. No, he could just mention the attorney's name."

The sole objective of the Brotherhood of Railroad Trainmen, its officers, agents, servants, employees, and its members was to communicate to its injured members, and survivors of deceased members, the advisability of obtaining legal advice before making settlement of their claims, and the names of attorneys, who have the capacity to handle such claims successfully.

The Brotherhood neither has Regional Investigators nor Legal Counsel designated in the Commonwealth of Virginia, excepting its present counsel, who represents the Brotherhood in this case only. (Kennedy dep. R-56)

W. P. Kennedy further testified in part as follows: (R-151)

BY MR. BEECHER E. STALLARD:

"Q. Do you take the position that the Brotherhood

of Railroad Trainmen has the right to make known to its members attorneys and information which they may have gathered in the investigation of accidents and death?

"A. Yes, we have that right.

"Q. You take the position, then, that you have the right to advise your injured members, and also the families of those who have been killed, of attorneys whom you consider proper?

"A. That is correct."

President Kennedy testified that in his opinion no member should do more than suggest the name of an attorney be employed. The members were at liberty to employ an attorney of their own choosing.

President Kennedy further testified that if he thought the Illinois decision would be acceptable to the Commonwealth of Virginia, then the Brotherhood would make the decision effective in Virginia. His testimony in part reads:

"* * * when this action came against us in the State of Virginia, we simply said, we won't apply any kind of a proposition in the State of Virginia until we know definitely what they want, even the Illinois decision, that may not be acceptable to Virginia. We don't know. *If we thought for a moment it would be, we would make it effective tomorrow.*"
(Emphasis supplied)

In Thomas v. Collins, 323 U.S. 516, 65 S.Ct. 315, 69 L.ed. 430, this Court said:

"The case confronts us again with the duty our system places on this court to say where the individual's freedom ends and the State's power begins. Choice on that border, now as always delicate, is perhaps more so where the usual presumption supporting legislation is balanced by the preferred place given in our scheme to the great, the indispensable democratic freedom secured by the First Amendment." cf. *Schneider v. State of N.J.*, 308 U.S. 147, 60 S.Ct. 146, 84 L.ed. 155; *Catwell v. Connecticut*, 310, U.S. 296, 60 S.Ct. 900, 44 L.ed. 1213, 128 ALR 1352; *Prince v. Mass.*, 321 U.S. 158, 64 S.Ct. 438.

"That priority gives these liberties a sanctity and a sanction not permitting dubious intrusions. And it is the character of the right, not of the limitation, which determines what standard governs the choice." Compare *U.S. v. Carolina Products Co.*, 304 U.S. 144, 152, 153, 58 S.Ct. 778, 783, 784, 82 L.ed. 1234.

"For these reasons any attempt to restrict those liberties must be justified by clear public interest, threatened not doubtfully, or remotely, but by clear and present danger. The rational connection between the remedy provided and the evil to be curbed, which in other context might support legislation against attack on due process grounds, will not suffice. These rights rest on firmer foundation. Accordingly, whatever occasion would restrain orderly discussion and persuasion, at appropriate time and place, must have clear support in public danger, actual or impending. Only the gravest abuse endangering paramount interest, give occasion for permissible limitation. It is, therefore, in our tradition to allow the widest room for discussion, the narrowest range for its restriction,

particularly when this right is exercised in conjunction with peaceful assembly. It is not by accident or coincidence that the rights to freedom in speech and press were coupled in a single guarantee with the rights of the people peacefully to assemble and to petition for redress of grievances. All these, though not identical, are inseparable. They are cognate rights, cf. *DeJonge v. Oregon*, 299 U.S. 353, 364, 57 S.Ct. 255, 259, 81 L.ed. 278, and therefore, are united in the First Article's assurance. Cf. 1 Annals of Congress, 759-760.

"This conjunction of liberties is not peculiar to religious activity and institutions alone. The First Amendment is freedom of mind, the same security as freedom of conscience. Cf. *Pierce v. Society of Sisters*, 268 U.S. 510, 45 S.Ct. 571, 69 L.ed. 1070, 39 ALR 468; *Meyer v. Neb.*, 262 U.S. 390, 43 S.Ct. 625, 67 L.ed. 1042, 29 ALR 1446; *Prince v. Mass.*, 321 U.S. 158, 64 S.Ct. 438, Great secular cases, with small ones, are guaranteed. The grievances for redress of which the right of petition was insured, and with it the right of assembly, are not solely religious or political ones, and the rights of free speech and of free press are not confined to any field of human interest."

In the case of *Thomas v. Collins*, *supra*, the court issued an injunction anticipating that Thomas was going to make a speech in Texas. In the instant case, the record unequivocally discloses that the Brotherhood of Railroad Trainmen, and its members, were not telling its injured members, and the survivors of deceased members to consult with lawyers about their cases in the State of Virginia, although the Brotherhood and its members desired to

operate in Virginia under the Illinois case, which gave them this right. Since the Brotherhood was not operating in Virginia at the time of the institution of this suit, the Chancery Court of the City of Richmond, Virginia, incorporated in its decree the following language:

"and the court finds that there is reasonable grounds for apprehension that this plan and course of conduct will, in furtherance of Defendant Brotherhood's avowed purpose, be adopted and put into effect in the City of Richmond, within the jurisdiction of this court."

The petitioner concedes that a state has the power to declare, what the public policy is concerning the practice of law as defined by statute and determine that certain practices violate such policy and is thus enjoined. However, in the instant case, both the Chancery Court of the City of Richmond, Virginia, and the Supreme Court of Appeals of Virginia, erred in applying the public policy of that State. The policy was declared by the Supreme Court of Appeals of Virginia, in the case of NAACP v. Harrison, 202 Va. 142, which is now before this Court on writ of certiorari. The Virginia Court of Appeals stated, after reviewing the pertinent decisions of this Court; that:

"A state may forbid one to practice law without a license, but it cannot prevent an unlicensed person from making a speech before an assembly, telling them their rights and urging them to assert same. (See Thomas v. Collins, 323 U.S. 516, 65 S.Ct. 315, 89 L.ed. 430)"

Thus, the public policy of the State of Virginia recognizes that it cannot prevent an unlicensed person from

telling others of their rights, and urging them to assert same.

The decision cited as applied to the facts of the instant case was brought to the attention of both Virginia courts, but rejected by them. The courts thus committed palatable error, which this court is respectfully requested to correct.

Thus, on the facts there has not been a violation of the statutes defining and regulating the practice of law in Virginia. The Virginia courts in so holding acted in obvious disregard of the facts with an arbitrariness this Court should not condone. (*Ward & Goe v. Krensky*, 259 U.S. 503, 42 S.Ct. 529, 66 L.ed. 1033; *Corn Prod. Ref. Co. v. Eddie*, 249 U.S. 427, 39 S.Ct. 325, 63 L.ed. 689). The enjoining of the right of communication in the instant case deprived petitioner of rights protected by the First and Fourteenth Amendments to the Federal Constitution. This protection the petitioner has claimed from the outset.

The issue involved is one of paramount importance to the Brotherhood of Railroad Trainmen and to its members and to other union members. If the peaceful communication employed by the petitioner for the sole purpose of telling its injured members to consult with attorneys before settling their cases, and to employ an attorney if necessary, who has been successful in handling cases under the Federal Employers' Liability Act and Safety Appliance Act, is not protected by the Federal Constitution, then peaceful communication is *per se* illegal. This is the effect of the Virginia Courts' decisions. This Court has not so held. On the contrary, this Court has steadfastly recognized peaceful communication as being protected by the Federal Constitution.

2. Whether the Federal Railway Act, which authorizes the Brotherhood to represent its members generally and specifically to handle their "grievances", creates such an interest in the Brotherhood, that it has the right to make known to its members the advisability of obtaining legal advice and to make known the names of competent counsel in connection with rights of members under the Federal Employers' Liability Act, notwithstanding any rule or doctrine of State law?

THE RAILWAY LABOR ACT GRANTS PETITIONER RIGHTS IN THE PREMISES WHICH CANNOT BE ABROGATED BY ANY CONSTRUCTION OF THE LAW OF VIRGINIA

The Brotherhood has an interest in the welfare of its injured members, this interest being inherent in the very nature of its labor organization which was originally formed to protect railroad employees and their widows from the disastrous consequences of railroad injuries and deaths. In that era, the average life expectancy of a switchman in 1893 was seven years. Griffith, *The Vindication of a National Public Policy under The Federal Employers' Liability Act*, 18 Law & Contemporary Problems, 160 at 963. The early organization was fraternal and for the purpose of providing insurance benefits to members totally disabled, or to the next of kin of members killed in railroad services.

Twenty-two years after the FELA was validly enacted in 1908, the Brotherhood established its Legal Aid Department. The purpose was to give aid and protection to its members once more; this time so that these members could exercise their legal rights despite the railroad claim agent's deceit and despite the fraud of some lawyers who

represented employees. The worthiness of that objective has never been criticized because it has designated particular lawyers. The Brotherhood has modified the Plan to meet objections. The modifications have never been enough because the objectors have refused to recognize the Brotherhood's interest in its members.

The Supreme Court of Illinois did recognize the interest of the Brotherhood based on policy considerations founded on the hazardous nature of railroad employment and on the persistence of undesirable practices on the part of railroad claim agents. That Court, however, denied the Trainmen's contention here made which is based on the Railway Labor Act (45 U.S.C.A. §§151, et seq.)

As that court states, the Brotherhood is authorized to to represent its members before the National Railroad Adjustment Board or other appropriate tribunals in the processing of disputes growing out of grievances. But, the Court was *clearly in error* when it stated that these injury and death claims were not the kind of injury and death claims that the statute contemplates. Grievance is a broad term and includes some of these claims in the opinion of this Court. Mr. Justice Rutledge in *E. J. & E. v. Burley*, 325 U.S. 711, 65 S.Ct. 1282, provided, and established the basis for the distinction between "major" and "minor" disputes under the Railway Labor Act. Briefly, major disputes are matters to be resolved by collective bargaining while minor disputes must go to the National Railroad Adjustment Board. Speaking of the minor disputes as the second of two classes, Mr. Justice Rutledge states at 325 U.S. 723, 65 S.Ct. 1290:

"The second class, however, contemplates the ex-

istence of a collective agreement already concluded or, at any rate, a situation in which no effort is made to bring about a formal change in terms or to create a new one. The dispute relates either to the meaning or proper application of a particular provision with reference to a specific situation or to an omitted case.

"In the latter event the claim is founded upon some incident of the employment relation, or asserted one, independent of those covered by the collective agreement, *e.g.*, *claims on account of personal injuries*. In either case the claim is to rights accrued, not merely to have new ones created for the future." (Emphasis supplied)

The Brotherhood is entitled to organize for the mutual aid and protection of its members by virtue of the Railway Labor Act. Moreover, that Act is in *pari materia* with the National Labor Relations Act. *Order of Railroad Telegraphers v. Ry. Exp. Agency*, 321 U.S. 342, 346, 64 S.Ct., 582, 585. The full ambit of the rights of association for mutual aid and protection, an approach to which has never been asserted by the Brotherhood, is stated in *Salt River Valley Water User's Association v. NLRB*, 9th Cir., 206 F (2d) 325, which involved the rights of *zanjeros*. A *zanjero* is responsible for the delivery of water and is required to be on duty for twenty-four hours a day, seven days a week. In deciding the case, the Circuit Court states at pages 328-329:

The peculiar nature of the *zanjeros'* duties and working hours has resulted in considerable dispute as to their wages and the adequacy thereof under the minimum wage provisions of the Fair Labor Stand-

ards Act of 1938, 29 U.S.C. A. § 201 et seq. This matter had been discussed at meetings of the union to which the zanjeros belonged, but some of the zanjeros were dissatisfied with the progress the union had made. Therefore, in October of 1950, a group of zanjeros attended a meeting at which Sturdivant was selected to circulate a petition conferring upon him power of attorney to recover for the zanjeros by court action or negotiation their individual claims for backpay and overtime wages allegedly due from the Association under the provisions of the Fair Labor Standards Act. In less than two weeks Sturdivant obtained the signatures of 30 or 35 zanjeros on his petition.

"The Association discharged him on November 7, his discharge slip stating merely that he was 'an unsatisfactory employee.'

"The Board asserts that circulation by Sturdivant of the petition authorizing him to take action on behalf of the zanjeros in regard to their grievances constituted 'concerted activities for the purpose of * * mutual aid or protection' within the meaning of §7 of the Act, 29 U.S.C.A., §157. We agree with this contention. The act provides that 'any individual employee or a group of employees shall have the right at any time to present grievances to their employer and to have such grievances adjusted, without the intervention of the bargaining representative * * §9(a) of the Act, 29 U.S.C.A., §159(a). Concerted activity may take place where one person is seeking to induce action from a group. N.L.R.B. v. Schwartz, 5 Cir., 1945, 146 F (2d) 773. Further, 'concerted activities for the purpose of * * mutual

aid or protection' are not limited to union activities. *Modern Motors, Inc., v. NLRB.*, 8 Cir., 1952, 198 F (2d) 925; *NLRB v. J. I. Case Co.*, 8 Cir., 1952, 198 F (2d) 919; *NLRB v. Phoenix Mut. Life Ins. Co.*, 7 Cir., 1948, 167 F (2d) 983, 6 ALR (2d) 408, certiorari denied 335 U.S. 845, 69 S.Ct. 68, 93 L.ed. 395. By soliciting signatures to the petition, Sturdivant was seeking to obtain such solidarity among the *zanjeros* as would enable the exertion of group pressure upon the Association in regard to possible negotiation and settlement of the *zanjeros*' claims. If suit were filed, such solidarity might enable more effective financing of the expenses involved. Thus, in a real sense, circulation of the petition was for the purpose of 'mutual aid or protection'. The Association argues that any legal rights to backpay on the part of the *zanjeros* were individual rights and that therefore there could be no 'mutual' aid or protection. But the Association ignores the fact that 'concerted activity for the purpose of * * mutual aid or protection' is often an effective weapon for obtaining that to which the participants, as individuals, are already 'legally' entitled."

Considering the broad range of "concerted activities" permitted this union by the Federal Labor Acts, it is astounding that the Bar can contend that the recommendation of a lawyer by one member of the union to an injured member constitutes "ambulance chasing". The interests of the union and its members are not distinct and separable. The union must, as a practical matter, be capable of acting in the interests of individual members if it is to serve its statutory functions. As Mr. Justice Frankfurter has stated in *Assoc. of Westinghouse Salaried Employees v. Westing-*

house Electric Corp., 348 U.S. 437, 457, 808 S.Ct. 480, 499:

"As a practical matter, the employees expect their union not just to secure a collective agreement, but more particularly to procure for the individual employees the benefits promised. If the union can secure only the promise and is impotent to procure for the employee the benefits promised, then, it is bound to lose their support." (Emphasis supplied)

More than at any other time, the injured employee reasonably expects his union to stand by him and especially to protect his right to employment when he has recovered. The injured employee should not be compelled to choose between his job and his rights under the FELA. This choice, however, has been and continues to be the railroad's objective. The injury itself under railroad rules in the past terminated the contract of employment. (See *Culver v. Kurn*, 154 Mo. 1158, 193 S.W. (2d) 602, 1946) Later, the railroads relied on principles of "promissory estoppel" said to be involved in any settlement or judgment where the employee had claimed serious injury. (See Award 17454, Volume 125, Awards of First Division, NRAB, 1956) Lately, the railroads have been relying on "misrepresentation" in the application of employment as grounds for discharging employees who retain attorneys. (See Award 19557, Volume 144, Awards of First Division, NRAB, 1960) where the claim of employee for reinstatement was denied, the referee stating at p. 578:

"The pertinency and materiality of the misrepresentation is a particularly significant feature of the instant

case. Claimant not only failed to reveal that he has had three anterior shoulder separations (dislocations) of the same shoulder, but by not revealing his former employment with Barrett, frustrated ready revelation of these injuries. While in carrier's employment, he has suffered two more identical injuries to the same shoulder, both arising under quite ordinary working situations. Although it is a condition which is not apparent upon ordinary physical examination, it is something which may recur almost any time.

"Having lost the employee's services for a considerable time already in each of two instances of injuries on the job, and paid claims respectively of \$644.50 and \$2,250., not only is the carrier naturally apprehensive of the high probability of further such occurrences, but also there are involved paramount considerations of safety to the public and other employees, and indeed to claimant himself, arising from the immobilizing and excruciatingly painful dislocations which could occur at critical moments of great danger. In view of this materiality and the prior grounds mentioned, this claim must be denied."

The Brotherhood, of course, must prosecute these claims for reinstatement even though the employee retained attorneys other than attorneys recommended by the Brotherhood or its members. Recently, the Brotherhood filed a brief *amicus curiae* in this Court in a case of a member of Trainmen who had been discharged by the railroad because of alleged "misrepresentations" in his application of employment. When his case came to trial, the lower court directed a verdict against him because of the "misrepresentations". The Brotherhood urged in its brief that this de-

fense be eliminated and that the Court declare that his rights as an employee be made absolute. The Court eliminated this defense in FELA actions except where the employee applies by using an imposter. *Still v. Norfolk & Western R. Co.*, 368 U.S. 35, 82 S.Ct. 148 (1961). This court thereby eliminated the basis in legal theory for the First Division's ignoring of the collective bargaining provisions which customarily make the applicant an employee if not rejected during a period of 30, 60 or 90 days.

The Brotherhood not only has the burden of protecting the injured employee's right to his job, but the interest of the Brotherhood in some cases is more direct and immediate because of the shadowy no man's land of distinctions between Railway Labor Act "grievances" and FELA "personal injuries." See *Butler v. Smith*, 104 SE (2d) 848, 869 where the Florida Appellate Court held that the injured employee could not question the propriety or right of the railroad to give him the field test on which he was injured, but held that he had a remedy for such "grievance" under the Railway Labor Act. The petition for certiorari was dismissed by this Court by a vote of 5 Justices against 4, on the ground that the litigation did not turn on the issue of the inter-relationship of the Railway Labor Act and the FELA. The termination of that case, however, does not give support to the Illinois Supreme Court's earlier finding that FELA actions are not like the labor disputes contemplated by the Railway Labor Act. (See *Smith v. Butler*, 364 U.S. 361, 81 S.Ct. 927, 1961).

Because of the many interests of the Brotherhood in the injured employees and the many ramifications of those

interests, it is respectfully submitted that the Federal law must govern and a State Court is without jurisdiction to enjoin the present plan of attorney recommendation authorized by the decision of the Supreme Court of Illinois.

For the foregoing reasons, it is respectfully requested that this petition for a writ of certiorari be granted.

Respectfully submitted,

BEECHER E. STALLARD
1223-29 Cen. Natl. Bank Bldg.
Richmond, 19 Virginia

JOHN J. NAUGHTON
205 W. Wacker Drive
Chicago, Illinois

EDWARD B. HENSLEE, JR.
205 W. Wacker Drive
Chicago, Illinois

APPENDIX

VIRGINIA:

In the Supreme Court of Appeals held at the Masonic Building in the City of Staunton on Friday the 31st day of August, 1962.

Brotherhood of Railroad Trainmen,
Appellant,
against

Commonwealth of Virginia, ex rel. Virginia State Bar,
Appellee.

Upon a Petition to Rehear

On mature consideration of the petition of the appellant to set aside the decree entered herein on the 12th day of June, 1962, and grant a rehearing thereof, the prayer of the said petition is denied.

A copy, Teste:

H. G. TURNER
Clerk ..

VIRGINIA:

**IN THE CHANCERY COURT OF THE CITY OF
RICHMOND**

THE 29th DAY OF JANUARY, 1962.

**COMMONWEALTH OF VIRGINIA, ex rel, Virginia
State Bar,
Complainant,**

v.

**BROTHERHOOD OF RAILROAD TRAINMEN,
et als,
Defendants.**

FINAL DECREE AWARDING INJUNCTION

This cause came on this day to be finally heard upon the papers formerly read, upon the exhibits filed; upon the depositions filed; upon the transcript of the evidence heard orally in open court, authenticated by the judge and now made a part of the record; and was argued by counsel.

Upon consideration whereof the court finds the following facts:

The defendant Brotherhood in 1930 adopted a plan designed to make available to its members, and the families of its deceased members, the professional services of attorneys selected by the Brotherhood to represent them in claims for personal injury or death arising out of railroad service.

In order to implement this plan the Brotherhood estab-

lished at its Grand Lodge a "Legal Aid Department" (renamed on January 1, 1959, "Department of Legal Counsel"), divided the United States into Regions, and entered into agreements with certain attorneys at law selected by the Brotherhood in each Region, called Regional Counsel (on and after January 1, 1959, called Legal Counsel).

(a) The defendant Brotherhood assigned one or more "Regional Investigators" to each such counsel, who were paid by the Brotherhood.

(b) The operation of this plan has from its inception resulted, and still results, in channeling all, or substantially all, claims for personal injury to, or death of, members into the hands of such Regional (or Legal) Counsel.

(c) In furtherance of the plan the defendant Brotherhood has advised, and continues to advise, its members and the families of deceased members with respect to the legal aspects of their claims; (d) has held out, and continues to hold out, Regional (or Legal) Counsel as the only lawyers approved by the Brotherhood to aid its members and their families; (e) has controlled, and continues to control, directly or indirectly, the fees to be charged by such counsel to its members and their families; (f) has furnished to such counsel prompt notice of the injury or death of a member in railroad service for the purpose of aiding such counsel in obtaining legal employment by its members and their families; (g) has solicited, and continues to solicit, the handling of such claims by such counsel; (h) has paid the salaries of the Regional Investigators (whose chief function is to solicit legal employment of such counsel to prosecute such claims); (i) has advised, and continues to advise, members and the families of deceased

members that the Regional (or Legal) Counsel will defray expenses and make advances during the pendency of claims; (j) has accepted, both directly and indirectly, a share of the counsel's fees; (k) and has countenances the sharing of the fees of such counsel by the Regional Investigators and others who procure legal employment for such counsel.

(l) Various courts throughout the several States in which the practices of the defendant Brotherhood have been subjected to inquiry have reached similar findings of facts and have enjoined the continuance of such practices by the defendant Brotherhood and its Regional (Legal) Counsel.

(m) The defendant Brotherhood has made protestations on occasions prior to April 1, 1959, that it would discontinue the objectionable aspects of the plan and has from time to time made protestations that it has done so; yet it is admitted in the Brotherhood's answer that these practices continued up to April 1, 1959.

(n) The court finds that the defendant Brotherhood still adheres to the pattern and design of the plan formulated and implemented in 1930.

(o) And the court finds that there is reasonable ground for apprehension that this plan and course of conduct will, in furtherance of the defendant Brotherhood's avowed purpose, be adopted and put into effect in the City of Richmond, within the jurisdiction of this court.

WHEREFORE, the court doth ADJUDGE, ORDER And DECREE that the Brotherhood of Railroad Trainmen, its officers, agents, servants and employees, and its members acting in its behalf, be, and they are now, en-

joined (a) from in any manner, directly or indirectly, engaging in the practices aforesaid in the Commonwealth of Virginia; and, in particular, (b) from giving or furnishing legal advice to its members or their families; (c) from holding out lawyers selected by it as the only approved lawyers to aid the members or their families; (d) from informing any lawyer that an accident has occurred and furnishing the name and address of an injured or deceased member for the purpose of obtaining legal employment for such lawyer, or in any other manner soliciting or encouraging such legal employment of the selected lawyers; (e) from stating or suggesting that such selected lawyers will defray expenses and make advances to clients pending settlement of claims; (f) from controlling, directly or indirectly, fees charged or to be charged by any lawyer; (g) from making compensation for the solicitation of legal employment for any lawyer, whether by way of salary, commission or otherwise; (h) from in any manner sharing in the legal fees of any lawyers, or countenancing the splitting of such fees with any lawman, or lay agency; and from doing any act or combination of acts, and from formulating and putting into practice any plan, pattern or design, the result of which is to channel legal employment to any particular lawyer or group of lawyers; and, in general, from violating the the laws governing the practice of law in the Commonwealth of Virginia.

It is further ORDERED that the complainant recover of the defendant Brotherhood its costs in this suit as taxed by the clerk.

The complainant being a person from whom, in the opinion of the court, it would be improper to require bond, the court requires no injunction, bond and this injunction is in force immediately.

The Brotherhood of Railroad Trainmen will be put upon notice of the provisions of this decree by acceptance of service of an attested copy by its counsel of record in this suit and in conformity with the request of counsel for the complainant it is further ORDERED that a certified copy of this decree be served on the secretary of each subordinate lodge of the defendant Brotherhood in the Commonwealth of Virginia.

To all of the provisions of this decree the defendant objected and excepted.

The objects for which this suit was instituted having been fully accomplished, it is ORDERED that the cause be stricken from the docket and the papers placed amongst the ended causes, properly indexed, with leave reserved to any party to have the suit reinstated for good cause shown and after such notice as the court may require.

VIRGINIA:

In The Supreme Court Of Appeals Held At The Supreme Court Of Appeals Building In The City Of Richmond, On Tuesday, The 12th Day Of June, 1962.

BROTHERHOOD OF RAILROAD TRAINMEN,
Appellant,

v.

COMMONWEALTH OF VIRGINIA, ex rel Virginia
State Bar,
Appellee.

The petition of Brotherhood of Railroad Trainmen for

an appeal and supersedeas from a decree entered by the Chancery Court of the City of Richmond, on the 29th day of January, 1962, in a certain chancery cause then therein depending, wherein Commonwealth of Virginia, ex rel Virginia State Bar, was plaintiff and the petitioner and others were defendants; having been maturely considered and a transcript of the record of the decree aforesaid seen and inspected, the court being of opinion that the said decree is plainly right, doth reject said petition and refuse said appeal and supersedeas, the effect of which is to affirm the decree of the said Chancery Court.

CONSTITUTION OF THE UNITED STATES OF AMERICA

AMENDMENT I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assembly, and to petition the Government for a redress of grievances.

AMENDMENT 14

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

CHAPTER 8—RAILWAY LABOR ACT RAILROADS, EXPRESS AND SLEEPING CAR COMPANIES

§ 151. Definitions; "Railway Labor Act"

§ 151a. General purposes

The purposes of the chapter are: (1) To avoid any interruption to commerce or to the operation of any carrier engaged therein; * * *

§ 152. General Duties

First. Duty of carriers and employees to settle disputes.

It shall be the duty of all carriers, their officers, agents, and employees to exert every reasonable effort to make and maintain agreements concerning rates of pay, rules and working conditions, and to settle all disputes, whether arising out of the application of such agreements or *otherwise*, in order to avoid any interruption to commerce or to the operation of any carrier growing out of any dispute between the carrier and the employees thereof. (Emphasis supplied)

Second. Consideration of disputes by representatives

Third. Designation of representatives

Fourth. Organization and collective bargaining; freedom from interference by carrier; assistance in organizing or maintaining organization by carrier forbidden; deduction of dues from wages forbidden

Fifth. Agreements to join or not to join labor organizations forbidden

Sixth. Conference of representatives; time; place; private agreements

Seventh. Change in pay, rules or working conditions contrary to agreement or to section 156 forbidden

Eighth. Notices of manner of settlement of disputes; posting

Ninth. Disputes as to identity of representatives; designation by Mediation Board; secret elections

Tenth. Violations; prosecution and penalties

§ 153. National Railroad Adjustment Board

First. Establishment; composition; powers and duties; divisions; hearings and awards

Second. Establishment of system, group or regional boards by voluntary agreement.

§ 154. National Mediation Board

First. Board of Mediation abolished; National Mediation Board established; composition; term of office; qualifications; salaries; removal

Second. Chairman; principal office; delegation of powers; oaths; seal; report

Third. Appointment of experts and other employees; salaries of employees; expenditures

Fourth. Delegation of powers and duties

Fifth. Transfer of officers and employees of Board of Mediation; transfer of appropriation

§ 155. Functions of Mediation Board

First. Disputes within jurisdiction of Mediation Board

Second. Interpretation of agreement

Third. Duties of Board with respect to arbitration of disputes; arbitrators; acknowledgment of agreement; notice to arbitrators; reconvening of arbitrators; filing contracts with Board; custody of records and documents

§ 156. Procedure in changing rates of pay, rules, and working conditions

§ 157. Arbitration

First. Submission of controversy to arbitration.

Second. Manner of selecting board of arbitration.

Third. Board of arbitration; organization; compensation; procedure.

§ 158. Agreement to arbitrate; form and contents; signatures and acknowledgment; revocation.

§ 159. Award and judgment thereon; effect of charter on individual employee

First. Filing of award.

Second. Conclusiveness of award; judgment.

Third. Impeachment of award; grounds.

Fourth. Effect of partial invalidity of award.

Fifth. Appeal; record.

Sixth. Finality of decision of circuit court of appeals.

Seventh. Judgment where petitioner's contentions are sustained.

Eighth. Duty of employee to render service without consent; right to quit.

§ 160. Emergency Board.

§ 161. Effect of partial invalidity of chapter

§ 162. Appropriation.

§ 163. Repeal of prior legislation; exception.

§ 164. Repealed.

SECTIONS OF VIRGINIA CODE, 1950, AS AMENDED:

§ 54-48. Rules and regulations defining practice of law and prescribing codes of ethics and disciplinary procedure.

—The Supreme Court of Appeals may, from time to time,

prescribe, adopt, promulgate and amend rules and regulations:

- (a) Defining the practice of law.
- (b) Prescribing a code of ethics governing the professional conduct of attorneys at law and a code of judicial ethics.
- (c) Prescribing procedure for disciplining, suspending, and disbarring attorneys at law.

§ 54-49. Organization and government of Virginia State Bar.—The Supreme Court of Appeals may, from time to time, prescribe, adopt, promulgate and amend rules and regulations organizing and governing the association known as the Virginia State Bar, composed of the attorneys at law of this State,, to act as an administrative agency of the Court for the purpose of investigating and reporting the violation of such rules and regulations as are adopted by the Court under this article to a court of competent jurisdiction for such proceedings as may be necessary, and requiring all persons practicing law in this State to be members thereof in good standing.

§ 54-50. Fees.—The Supreme Court of Appeals may, from time to time, prescribe, adopt, promulgate and amend rules and regulations fixing a schedule of fees to be paid by members of the Virginia State Bar for the purpose of administering this article, and providing for the collection and disbursement of such fees; but the annual fees to be paid by any attorney at law shall not exceed the sum of ten dollars.

§ 54-51. Restrictions as to rules and regulations.—Notwithstanding the foregoing provisions of this article, the Supreme Court of Appeals shall not adopt or promulgate rules or regulations prescribing a code of ethics governing the professional conduct of attorneys at law, which shall be inconsistent with any statute; nor shall it adopt or promulgate any rule or regulation or method of procedure which shall limit or supersede the jurisdiction of the courts to deal with the discipline of attorneys at law as provided by law; nor shall there be any rule or regulation or method of procedure adopted and promulgated which will provide for any additional method for the trial of attorneys in disbarment or suspension proceedings except those now provided for by statute, and in no case shall an attorney be tried for the violation of any rule or regulation adopted under this article except by a court of competent jurisdiction.

§ 54.83.1. Injunction against running, capping, soliciting and maintenance.—The Commonwealth's Attorney, or any person, firm or corporation against whom any claim for damage to property or damages for personal injuries or for death resulting therefrom, is or has been asserted, may maintain a suit in equity against any person who has solicited employment for himself or has induced another to solicit or encourage his employment, or against any person, firm, partnership or association which has acted for another in the capacity of a runner or capper or which has been stirring up litigation in such a way as to constitute maintenance whether such solicitation was successful or not, to enjoin and permanently restrain such person, his agents, representatives and principals from soliciting any such claims against any person, firm or corporation subsequent to the date of the injunction.

PART SIX

INTEGRATION OF THE STATE BAR

I.

DEFINING THE PRACTICE OF LAW

The principles underlying a definition of the practice of law have been developed through the years in social needs and have received recognition by the courts. It has been found necessary to protect the relation of attorney and client against abuses. Therefore it is from the relation of attorney and client that any definition of the practice of law must be derived.

The relation of attorney and client is direct and personal, and a person, natural or artificial, who undertakes the duties and responsibilities of an attorney is none the less practicing law though such person may employ others to whom may be committed the actual performance of such duties.

The gravity of the consequences to society resulting from abuses of this relation demands that those assuming to advise or to represent others shall be properly trained and educated, and be subject to a peculiar discipline. That fact, and the necessity for protection of society in its affairs and in the ordered proceedings of its tribunals, have developed the principles which serve to define the practice of law.

Generally, the relation of attorney and client exists, and one is deemed to be practicing law, whenever he furnishes to another advice or service under circumstances which imply his possession and use of legal knowledge or skill.

Specifically, the relation of attorney and client exists, and one is deemed to be practicing law, whenever—

(1) One undertakes for compensation, direct or indirect, to advise another, not his regular employer, in any matter involving the application of legal principles to facts or purposes or desires.

(2) One, other than as a regular employee acting for his employer, undertakes, with or without compensation, to prepare for another legal instruments of any character, other than notices or contracts incident to the regular course of conducting a licensed business.

(3) One undertakes, with or without compensation, to present the interest of another before any tribunal—judicial, administrative, or executive—otherwise than in the presentation of facts, figures, or factual conclusions, as distinguished from legal conclusions, by an employee regularly and *bona fide* employed on a salary basis, or by one specially employed as an expert in respect to such facts and figures when such presentation by such employee or expert does not involve the examination of witnesses or preparation of pleadings.

VIRGINIA:

IN THE CHANCERY COURT OF THE CITY OF
RICHMOND

COMMONWEALTH OF VIRGINIA, ex rel, Virginia
State Bar,
Complainant,

BROTHERHOOD OF RAILROAD TRAINMEN,
c/o V. W. Satterwhite,
Assistant to the President,
904 West 30th Street
Richmond, Virginia

and

BERNARD M. SAVAGE,
3100 Mathieson Building
Baltimore 2, Maryland

and

NORRIS W. TINGLE,
3100 Mathieson Building
Baltimore 2, Maryland
Defendants.

BILL OF COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

The complainant respectfully represents to the Court:

1. The Complainant, Virginia State Bar, is the administrative agency of the Commonwealth of Virginia, com-

prised of all lawyers duly qualified and licensed to practice law in the Commonwealth, having the duty to investigate and report all violations of statutes, rules and regulations concerning the practice of law therein.

2. The defendant, Brotherhood of Railroad Trainmen (hereinafter sometimes referred to as the Brotherhood), is a trade union, an unincorporated association, with its headquarters located in Cleveland, Ohio. The Brotherhood is composed of lodges located in all of the forty-eight states of the United States, twelve of which have their headquarters in the Commonwealth of Virginia and three of which have their headquarters in Richmond, Virginia. All of the members of said lodges are the employees of some railroad. W. V. Satterwhite, a resident of Richmond, Virginia, is an assistant to the president of the Brotherhood and is an officer of the Brotherhood.

3. The defendant, Bernard M. Savage (hereinafter sometimes referred to as Savage), is an attorney at law and a resident of the State of Maryland. He is not a member of the Virginia State Bar and is not licensed to practice law in the Commonwealth of Virginia. He was formerly designated by the Brotherhood of Railroad Trainmen as its Regional Counsel and, since April of 1959, is now designated as one of its Legal Counsel.

4. The defendant, Norris W. Tingle (hereinafter sometimes referred to as Tingle), is a resident of the State of Maryland and is an employee of both of the other defendants. He is designated by the defendant, Brotherhood of Railroad Trainmen, as its Regional Investigator.

5. The Brotherhood maintains what it calls a "Legal

Aid Department" which, while collecting information that is valuable to those who are interested in the welfare of railroad employees, also solicits business through the means of certain of its employees and members of its lodges for various attorneys at law throughout the United States which have been selected by the Legal Aid Department and designated by said department as Regional or Legal Counsel.

6. The solicitation of business for Regional or Legal Counsel has been conducted in the following manner: when a lodge member is injured or killed in the course of his employment, he or his family or estate notifies his lodge and his lodge, acting through its secretary or some other member, notifies the Legal Aid Department of the injury or death; the Legal Aid Department immediately notifies Regional or Legal Counsel of the injury or death; Regional or Legal Counsel, in turn, sends the Regional Investigator, a person who is employed and paid by both Regional or Legal Counsel and by the Brotherhood, to investigate the happening; in many cases both the lodge to which the injured man belongs or to which the deceased belonged, acting through its officers and members and the Regional Investigator, advise the injured person or his family, or the family or estate of the deceased, that the claim against the injured or deceased member's employer should not be settled without consulting Regional or Legal Counsel; and the Regional Investigator then arranges for the injured party or family of the deceased to execute the necessary agreements retaining the services of Regional or Legal Counsel on forms which he carries with him.

7. Regional and Legal Counsel handle any and all such matters on a contingent fee basis that is fixed and set by

the Brotherhood through its Legal Aid Department and, together with other Regional or Legal Counsel, he supports the Legal Aid Department by paying annually to the Legal Aid Department a sum assessed by said department, the amount of which is determined by the department by the use of a formula that takes into account the volume of fees collected by Regional or Legal Counsel from members of the Brotherhood, their families or estates. Regional or Legal Counsel further makes advances for the support and maintenance of injured Brotherhood members or the families of deceased members pending settlement of claims that he agrees to handle for them.

8. The Brotherhood, Savage as Regional and Legal Counsel for an area which includes the entire Commonwealth of Virginia, and Tingle as Regional Investigator for the Commonwealth of Virginia have engaged in the practices hereinabove referred to and the complainant is advised are engaging in such practices in the Commonwealth of Virginia and in the City of Richmond.

9. Your complainant charges that the practices hereinabove described constitute the unauthorized practice of law in the Commonwealth of Virginia by each of the defendants, the Brotherhood, Savage and Tingle.

WHEREFORE, your complainant prays that the Brotherhood, Savage and Tingle be permanently enjoined and restrained from engaging in or continuing the practices hereinabove described and from practicing law, directly or indirectly, in the Commonwealth of Virginia and from engaging in any activities connected therewith.

COMMONWEALTH OF VIRGINIA
ex rel Virginia State Bar

By: /s/ AUBREY R. BOWLES, JR.
 Aubrey R. Bowles, Jr.
 901 Mutual Building
 Richmond 19, Virginia
Its Counsel

Excerpts from the
 Illinois Supreme Court Opinion

Nonrecord No. 751—Agenda 36—November, 1957

In re Brotherhood of Railroad Trainmen

PER CURIAM: A motion was made on behalf of the Brotherhood of Railroad Trainmen for leave to file in this court an original petition for a declaratory judgment. The motion and petition described certain conduct of the Brotherhood and the lawyers who serve as regional counsel for its legal aid department and requested a ruling that the conduct described was neither illegal nor unprofessional. The motion disclosed that disciplinary proceedings were pending against Edward B. Henslee, general counsel for the Brotherhood, and a regional counsel for its legal aid department, and three of his associates, Edward B. Henslee, Jr., Walter N. Murray and Frank H. Monek.

The questions raised by the petition had not heretofore been considered by the court. And because this court both formulates and enforces the standards governing the practice of law (In re Application of Day, 181 Ill. 73,) we were of the opinion that before a ruling of any kind should be made, an investigation in to the practices in question should be conducted. The motion for leave to file was therefore denied, but at the same time the court,

on its own motion, appointed the Honorable Charles H. Thompson, a former justice of this court, as special commissioner, "with power to inquire into and take proof of all relevant factual matters and to report the testimony, together with the applicable principles of law, to the Chief Justice".

Thereafter hearings were conducted by the special commissioner. The Brotherhood of Railroad Trainmen, the Illinois State and Chicago Bar associations, and a group of twenty-seven railroad companies participated in the hearings by their counsel. At the conclusion of the hearings briefs were filed on behalf of these parties and also on behalf of the American Bar Association. The special commissioner's report and the briefs are now before the court.

There is no serious dispute as to the basic facts. In 1930 the Brotherhood established its "Legal Aid Department". It took this step because it felt that under pressure from railroad claim agents, the claims of its members resulting from injuries they suffered in their work were being settled for unfair amounts. Some of the railroads forced settlements by the threat of loss of employment. At the same time, the members were being solicited by lawyers of varying degrees of competence who sought to, and did, handle the claims of members for contingent fees that sometimes ran as high as fifty per cent of the amount recovered.

As it presently operates, the legal aid department of the Brotherhood maintains a central office in Cleveland, Ohio, at the national headquarters of the Brotherhood. In that office it has a staff consisting of a chief clerk, a

research analyst, three stenographers and a file clerk. It also has a number of regional investigators. The Cleveland office serves as a clearing house which receives reports from all Brotherhood Lodges of instances in which members have been injured or killed in railroad accidents. It notifies the appropriate regional investigator and regional counsel of all accidents.

Operating in conjunction with the legal aid department are sixteen lawyers, each designated by the Brotherhood as a regional counsel for the legal aid department. The regions tend to follow railroad system lines, rather than geographical lines. For example, Edward B. Henslee, the regional counsel with offices in Chicago, is assigned a region that includes all members employed by railroads in Ohio, and the members employed by certain railroads in Pennsylvania, Michigan, Indiana and Illinois. The dominant considerations in the selection of regional counsel are the Brotherhood's confidence in the ability of the attorney, plus the prospect of high jury verdicts in the city where his office is located.

*** The Brotherhood Constitution requires that each local lodge appoint someone whose duty it is to fill out an accident report whenever a member is injured and also make contact with the injured man, or the relatives of a man who is killed, and make it known that legal advice will be given free of charge by the regional counsel. He also makes known the availability of regional counsel to handle the claim and any ensuing litigation.

*** The lodge member who investigates the occurrence and makes contact with the injured man recommends and urges that regional counsel be consulted and employed.

*** The Brotherhood defends its practices on legal grounds, and also argues that they are justified by policy considerations. As a matter of law it argues that its method of handling the personal injury and death claims of its members is permissible because under the Railway Labor Act the Brotherhood is authorized to represent its members before the National Railroad Adjustment Board or other appropriate tribunals, in the processing of "disputes growing out of grievances". (45 U.S.C. 152.) But these injury and death claims are not the kind of labor disputes that the statute contemplates. We find nothing to suggest that Congress intended by the Railroad Labor Act, any more than by the Labor Management Relations Act, (29 U.S.C. 141) to overthrow State regulation of the legal profession and the unauthorized practice of law.

*** The policy argument that the Brotherhood makes, based upon facts that are peculiar to it and to its members, is more persuasive. Railroading is a hazardous business in the course of which many men are injured, and the injuries are frequently very serious. The members of the Brotherhood include switchmen, who perform the most hazardous part of railroad work. In the past the claim agents of some of the railroad have been aggressive in their efforts to settle the claims of injured trainmen for the smallest amounts possible regardless of fairness and adequacy. And while there is evidence that some railroads are moving away from this policy, there is also evidence that undesirable practices persist. The Brotherhood insists that injured trainmen, and the representatives of deceased trainmen, who are unversed in the law, are entitled to procedures that will insure that they receive competent legal advice for reasonable fees. It points out that any advice or service rendered by the

regional counsel relates only to matters arising out of personal injuries incurred during the course of employment.

While these considerations have weight, they are insufficient in our opinion to override the principles that must govern the members of the legal profession in their relations with clients. Several courts have considered, in varying contexts, the activities of the legal aid bureau and its regional counsel. (*Hildebrand v. State Bar of California*, 36 Cal. 2d 504, 225 P. 2d 508; *Atchison, Topeka & Santa Fe Railway Co. v. Jackson*, 235 F. 2d (CC 10) 390; *In re O'Neill*, 5 F Supp. (D.C.E.D.N.Y.) 465; *Doughty v. Grills*, 37 Tenn. App. 63, 260 S.W. 2d 379; cf. *Ryan v. Pennsylvania Railroad Co.* 268 Ill. App. 364). With the exception of the *Ryan* case, all of them have expressed disapproval. The *Ryan* case was based primarily on the Appellate Court's appraisal of public policy. *It did, however, approve practices of the Brotherhood which do not differ in substance from those here involved.* (Italics ours)

*** What has been said would ordinarily be sufficient. The Brotherhood, however, has frankly and openly placed its problem and its own solution of it before the court, and asked for guidance. We think, therefore, that it is appropriate to indicate in broad outline what the Brotherhood may do with respect to the injury and death claims of its members.

The objective of the Brotherhood in seeking to secure competent legal representation of its members can be accomplished without lowering the standards of the legal profession. The Brotherhood has a legitimate interest in investigating the circumstances under which one of its

members has been injured. That interest antedates the occurrence of any particular injury. We are of the opinion that the Brotherhood may properly maintain a staff to investigate injuries to its members. It may so conduct those investigations that their results are of a maximum value to its members in prosecuting their individual claims, and it may make the reports of those investigations available to the injured man or his survivors.***

*** The Brotherhood may also make known to its members generally, and to injured members and their survivors in particular, first, the advisability of obtaining legal advice before making a settlement and second, the names of attorneys who, in its opinion, have the capacity to handle such claims successfully. *Its employees, however, may not carry contracts for the employment of any lawyer, or photostats of settlement checks.* (Italics ours) No financial connection of any kind between the Brotherhood and any lawyer is permissible. No lawyer can properly pay any amount whatsoever to the Brotherhood or any of its departments, officers, or members as compensation, reimbursement of expenses or gratuity in connection with the procurement of a case. Nor can the Brotherhood fix the fees to be charged for services to its members. The relationship of the attorney to his client must remain an individual and a personal one.

The course thus outlined, if adopted, will make it possible for the Brotherhood to achieve its legitimate objectives without tearing down the standards of the legal profession. If, in the future the claims of its injured members are solicited by lawyers, or if the fees charged by lawyers are excessive, the remedy of the Brotherhood will lie by way of complaint to the grievance committee of the

appropriate bar association, rather than by way of a competing system of solicitation.

So far as the disciplinary aspects of the matter are concerned, we are of the opinion that because of the decision of the Appellate Court in *Ryan v. Pennsylvania Railroad Co.* 268 Ill. App. 364, proceedings looking toward the imposition of discipline should not be pursued. (In *re Luster*, 12 Ill. 2d 25.) For the same reason we are of the opinion that time should be allowed the Brotherhood to reorganize its legal aid department along the lines outlined in this opinion. The standards here stated will therefore become effective on July 1, 1959.

* * *

NOTE—This unanimous opinion of the Illinois Supreme Court was rendered on May 23, 1958.

VIRGINIA:

IN THE CHANCERY COURT OF THE CITY OF
RICHMOND
COMMONWEALTH OF VIRGINIA, ex rel Virginia
State Bar,
Plaintiff,

v.

BROTHERHOOD OF RAILROAD TRAINMEN,
NORRIS W. TINGLE and BERNARD M. SAVAGE,
Defendants.

AMENDMENT TO ANSWER OF RESPONDENT,
BROTHERHOOD OF RAILROAD TRAINMEN

Amended Answer of Brotherhood of Railroad Trainmen to a Bill of Complaint exhibited against it in the Chancery Court of the City of Richmond, Virginia, by Commonwealth of Virginia, ex rel Virginia State Bar.

The Respondent by way of amendment and supplement to its original Answer in this cause, says that heretofore it filed its answer in this court, and ask that it be taken and read in connection with this, its amended and supplemental answer to the same extent and with the same effect as if the same were herein set forth; for Answer to the Bill of Complaint exhibited against it, the Respondent adds Paragraph (c) to Paragraph 9, beginning immediately after paragraph marked (b), to read as follows:

9(c) The Respondent, Brotherhood of Railroad Trainmen, alleges that it has the legal right to assist any of its injured members by making available to them or their family, the information gathered as a result of its investigation and that in addition it has the right to advise injured members to consult or employ attorneys and doctors for the purpose of protecting their rights, and further alleges that these rights are guaranteed to it by the Virginia Bill of Rights (Virginia Constitution Section 12) and secured by the 1st Amendment to the Constitution of the United States and guaranteed by the 14th Amendment to the Federal Constitution.

WHEREFORE, Respondent, therefore, prays that it may file its amended and supplemental answer and that the bill of complaint exhibited against it be dismissed for the

reason that the issues raised by the bill of complaint are moot and insufficient for want of equity.

**BROTHERHOOD OF RAILROAD
TRAINMEN**

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VIRGINIA:

**IN THE CHANCERY COURT OF THE CITY OF
RICHMOND
COMMONWEALTH OF VIRGINIA, ex rel Virginia
State Bar,
Plaintiff,**

v.

**BROTHERHOOD OF RAILROAD TRAINMEN,
et al,
Defendants.**

MOTION TO DISMISS

The Defendant Brotherhood moves the Court to strike the evidence of Plaintiff in this case on the ground that the Plaintiff has not proved that the Brotherhood is engaged in any unlawful practice or is engaged in the unauthorized practice of law in the Commonwealth of Virginia at the present time, nor has the Plaintiff proved that the Brotherhood was engaged in any unlawful practice or in the unauthorized practice of law in the Commonwealth of Virginia at the time of the institution of this case, which was on June 29, 1959.

GROUND FOR SAID MOTION

1. The evidence shows that prior to April, 1959, the Defendant Brotherhood eliminated practices which Plaintiff alleged it was engaged in in the Commonwealth of Virginia, and which Plaintiff alleged constituted the unauthorized practice of law.

2. The practices in which the Defendant Brotherhood is now engaged in the Commonwealth of Virginia do not constitute the practice of law and Defendant has the legal right to make available to its members or their families, any information gathered as a result of its investigation, and in addition it has the right, and members of local lodges affiliated with it, has the right to inform members to consult or employ attorneys and doctors for the purpose of protecting their rights, and states that these rights are guaranteed to it and to members of local lodges by the Virginia Bill of Rights (Virginia Constitution §12) and secured by the 1st Amendment to the Constitution of the United States and guaranteed by the 14th Amendment to the Federal Constitution.

3. The evidence does not prove that the Defendant Brotherhood is now or has ever been guilty of the practice of law in the Commonwealth of Virginia, under the rules defining the practice of law.

4. An injunction is a preventative remedy and where the evidence shows that the Defendant Brotherhood has ceased committing the acts complained of, an injunction should be refused. (See Barton's Chan. Prac. 3d, page 603, Akers v. Mathieson, 151 Va. 1, Kwass v. Kersey, 139 W.Va. 497, commented on in 57 W.Va. Law Rev. 101.)

VIRGINIA:

IN THE CHANCERY COURT OF THE CITY OF
RICHMOND

THE 23rd DAY OF JANUARY, 1962

COMMONWEALTH OF VIRGINIA, ex rel Virginia
State Bar,
Complainant,

v.

BROTHERHOOD OF RAILROAD TRAINMEN,
BERNARD M. SAVAGE and NORRIS W. TINGLE,
Defendants.

ORDER

This day came again the complainant and the defendant, Brotherhood of Railroad Trainmen, by counsel, and the said defendant presented its separate written motions (1) to strike exhibits filed with the testimony of William P. Kennedy, (2) to strike the testimony of Dewey C. McLaughlin, (3) to strike the testimony of Clifford D. Olson and Bette Olson, (4) to strike the testimony of Paul A. Hodges, (5) to strike the testimony of Charles William Clarke, Jr., (6) to strike the testimony of Kenneth H. Gibson, (7) to strike the testimony of Elmo S. Loman and Gloria M. Loman (8) to strike the testimony of Lawrence Edward Troxtell and Virginia Lee Troxtell, and (9) to strike all the evidence of the complainant and dismiss its suit, which said motions are hereby ORDERED filed in this cause and were argued by counsel. On consideration whereof, each of said motions is overruled and denied to which action of the Court the said defendant excepted. (Emphasis supplied)

Thereupon, the said defendant further moved the Court for leave to file in evidence in this cause photocopies of two certain letters, one dated April 3, 1961, from Douglas W. Matthews to The Solicitor of the City Court of Cedartown, Cedartown, Georgia, and the other dated October 12, 1961, from T. J. Lewis, Jr. to Mr. W. E. B. Chase, c/o Mr. Beecher Stallard, Central National Bank Building, Richmond, Virginia, and to strike from the evidence in this cause the testimony heretofore given by Mrs. Betty Ann Queen Doeg on October 10, 1961, to which the complainant objected on the grounds that the letters were not subject to cross-examination and that if admitted the complainant would be obliged to move the Court for leave to bring before the Court in person or by deposition the individuals referred to in said letters and such others as may be required to show to the Court that the matters therein set forth are not truly and correctly stated. Upon consideration whereof the motions to file the said letters and to strike the evidence of Mrs. Doeg are overruled and denied, to which the said defendant excepted.

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SUPREME COURT OF THE UNITED STATES

October Term, 1962

**U.S. Supreme Court, U.S.
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NO. ~~100~~ 34

BROTHERHOOD OF RAILROAD TRAINMEN,

Petitioner,

v.

COMMONWEALTH OF VIRGINIA, ex rel,

Virginia State Bar,

Respondent.

**ON PETITION FOR WRIT OF CERTIORARI
TO THE
SUPREME COURT OF APPEALS OF VIRGINIA**

BRIEF FOR RESPONDENT IN OPPOSITION

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December 8, 1962

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**In The
SUPREME COURT OF THE UNITED STATES**

NO. 583

BROTHERHOOD OF RAILROAD TRAINMEN,
Petitioner,

v.

COMMONWEALTH OF VIRGINIA, ex rel.,
Virginia State Bar,
Respondent.

**ON PETITION FOR WRIT OF CERTIORARI
TO THE
SUPREME COURT OF APPEALS OF VIRGINIA**

BRIEF FOR RESPONDENT IN OPPOSITION

THE PETITION STATES NO QUESTION FOR REVIEW

The petition for writ of certiorari presents no question for this Court to decide.

Counsel for petitioner undertake to present two questions for review (P 7-8):

"(1) Whether the Brotherhood of Railroad Trainmen and its members have the *right to make known to its members generally*, and to injured members and their survivors in particular, first, *the advisability of obtaining legal advice* before making settlement of their claims, and second, *the names of attorneys, who, in its and their opinion, have the capacity to handle such claims successfully*, and whether this right is protected by the First and Fourteenth Amendments to the Constitution of the United States?

"(2) Whether the Federal Railway Act, which authorizes the Brotherhood to represent its members generally and specifically to handle their 'grievances', creates such an interest in the Brotherhood, that it has the *right to make known to its members the advisability of obtaining legal advice and to make known the names of competent counsel* in connection with rights of members under the Federal Employers' Liability Act, notwithstanding any rule or doctrine of State Law?" (Italics supplied)

The decree of the Chancery Court of the City of Richmond, entered January 29, 1962, restrains the Brotherhood and its members "from giving or furnishing legal advice to its members or their families; from holding out lawyers selected by it as the *only* approved lawyers to aid the members or their families; * * * and from doing any act or combination of acts, and from formulating and putting into practice any plan, pattern or design, the *result* of which is to channel legal employment to any particular lawyer or group of lawyers; and, in general, from violating the laws governing the practice of law in the Commonwealth of Virginia." (R 150-155, PA 2-6. Italics supplied). The substance of the other prohibitions

of that decree are found in the opinion in *In Re Brotherhood of Railroad Trainmen*, 13 Ill. 2d 391, 150 N. E. 2d 163, upon which petitioner has relied as establishing the yardstick by which its conduct should be governed.

The exercise of the claimed rights, whether secured by the First and Fourteenth Amendments to the Constitution of the United States or by the Federal Railway Act, are not enjoined by the decree of the Chancery Court of the City of Richmond.

The Supreme Court of Appeals of Virginia, denying the Brotherhood's petition for an appeal and supersedeas on June 12, 1962, stated:

" * * * the court being of opinion that *the said decree is plainly right*, doth reject said petition, and refuse said appeal and supersedeas, *the effect of which is to affirm the decree of the said chancery court.*" (R 177, PA 6-7. Italics supplied).

Petition for rehearing was denied on August 31, 1962 (R 179, PA 1). Neither act of the Supreme Court of Appeals of Virginia enjoined the petitioner from exercising the rights claimed.

It is clear, beyond contradiction, that the rights claimed by the petitioner, the alleged denial of which are set out as the questions presented for review by this Court (P 7-8), are not enjoined or otherwise interfered with either by the decree of the Chancery Court of the City of Richmond or by the subsequent actions of the Supreme Court of Appeals of Virginia. There is no question for this Court to decide.

STATEMENT OF FACTS

Petitioner's STATEMENT OF CASE falls far short of the "concise statement of the case containing the facts material to the consideration of the questions presented" required by Rule 23, par. 1 (e).

Though ignored by petitioner, the facts found by the Chancery Court in its decree (R 150-152, PA 3-4) are the established facts before this Court. Petitioner has not set forth any question regarding the propriety of those findings.

Petitioner, however, has set forth certain isolated portions of a voluminous record, which in the light of the whole are incomplete, inaccurate or altogether untrue (P 5-7) and should not go unchallenged. The Brotherhood not only admitted as it now concedes (P 5), "that prior to April 1, 1959, Legal Counsel handled cases for injured members and estates of deceased members on a contingent fee basis, and further that Legal Counsel made contributions to the Department of Legal Counsel" but its answer and other papers filed (R 11-14, 30-33, 42-49, 69-84) also admit that *all of the acts charged in the bill of complaint* had been committed in a majority of the several states and in Virginia up to April 1, 1959, and set out affirmatively therein that *none* of the acts complained of had been committed in *any* state, including Virginia, since April 1, 1959 (R 11-14, 30-33). The Virginia State Bar did not, therefore, offer its evidence to prove the unauthorized acts committed in Virginia prior to April 1, 1959. They were admitted.

Excepting plaintiff's Exhibits 80. (Tr 287) and 81 (Tr 288) and the inferences therefrom, respondent was unable to show that any of the acts complained of had been committed in Virginia since April 1, 1959. Therefore, the

respondent produced evidence that the Brotherhood was continuing to operate substantially as it had done before April 1, 1959, in other states where its activities were not under examination and in states where the proceedings enjoining or otherwise restraining such activities had ended by decree with or without its consent. The depositions of the witnesses in the several states, the testimony adduced in open court and the exhibits clearly show and the Chancellor found that the Brotherhood had not in fact ceased the acts complained of on a national plane as it protested but, on the contrary, that it "still adheres to the pattern and design of the plan formulated and implemented in 1930" (R 152, PA 4).

The Chancery Court found "that there is reasonable ground for apprehension that this plan and course of conduct will, in furtherance of the defendant Brotherhood's avowed purpose, be adopted and put into effect in the City of Richmond, within the jurisdiction of this court" (R 152, P 16, PA 4). The "clear and present danger" as well as the "clear public interest", the determinative factors laid down in *Thomas v. Collins*, 323 U. S. 516, 69 S.Ct. 315, 69 L.ed. 430, and much quoted by petitioner (P. 13-15), were present.

For convenience and in support of the foregoing, each finding of fact made by the Chancellor in his decree of January 29, 1962, is documented to the record at the points hereinafter designated showing beyond dispute that they are conclusively supported by properly admitted evidence.

1. "The defendant Brotherhood in 1930 adopted a plan designed to make available to its members, and the families of its deceased members, the professional services of attorneys selected by the Brotherhood to represent them in

claims for personal injury or death arising out of railroad service" (Plaintiff's Exhibits: No. 1, Tr 34; No. 1A, Tr 38; No. 1B, Tr 39; No. 2, Tr 40; No. 3, Tr 42; No. 4, Tr 44; No. 5, Tr 44; No. 6, Tr 50; No. 6A, Tr 50; No. 6B, Tr 53; No. 7, Tr 54; No. 8, Tr 57; No. 9, Tr 58; No. 10, Tr 58; No. 12, Tr 64; No. 12A, Tr 65; No. 13, Tr 66; No. 14, Tr 66; No. 15, Tr 67 and No. 16, Tr 68).

2. "In order to implement this plan the Brotherhood established at its Grand Lodge a 'Legal Aid Department' (renamed on January 1, 1959, 'Department of Legal Counsel'), divided the United States into Regions, and entered into agreements with certain attorneys at law selected by the Brotherhood in each Region, called Regional Counsel (on and after January 1, 1959, called Legal Counsel)." (Plaintiff's Exhibits: No. 3, Tr 42; No. 4, Tr 44; No. 5, Tr 44; No. 10, Tr 58; No. 12, Tr 64; No. 12A, Tr 65; No. 13, Tr 66; No. 14, Tr 66; No. 15, Tr 67; No. 16, Tr 68; No. 33, Tr 188; No. 34, Tr 188; No. 35, Tr 189; No. 37, Tr 190; No. 70, Tr 280 and No. 71, Tr 280; Defendant's Answer, par. 5, R 11).

3. "The defendant Brotherhood assigned one or more 'Regional Investigators' to each such counsel, who were paid by the Brotherhood." (Plaintiff's Exhibits: No. 4, Tr 44; No. 11, Tr 60 and No. 17, Tr 77; Chase Exhibits C through J, Tr 387-398).

4. "The operation of this plan has from its inception resulted, and still results, in channeling all, or substantially all, claims for personal injury to, or death of, members into the hands of such Regional (or Legal) Counsel." (Plaintiff's Exhibits: No. 17, Tr 77; No. 21, Tr 110; No. 67, Tr 278; No. 79, Tr 287; No. 80, Tr 287 and No. 81,

Tr 288; Nelson Exhibits A through M, Tr 144-173; Kennedy Deposition, p. 109).

5. "In furtherance of the plan the defendant Brotherhood has advised, and continues to advise, its members and the families of deceased members with respect to the legal aspects of their claims;" (Plaintiff's Exhibits: No. 17, Tr 77 and No. 78, Tr 286; Kennedy Deposition, p. 43).

6. "has held out, and continues to hold out, Regional (or Legal) Counsel as the only lawyers approved by the Brotherhood to aid its members and their families;" (Plaintiff's Exhibits: No. 17, Tr 77; No. 72, Tr 281; No. 73, Tr 281; No. 73A, Tr 282; No. 73B, Tr 282; No. 74, Tr 282 and Nos. 74A-74C, Tr 283; Kennedy Deposition, pp. 43, 44; Depositions of McLaughlin, Olsen, Hodges, Clark, Gibson, Loman, Troxtell and Garwood).

7. "has controlled, and continues to control, directly or indirectly, the fees to be charged by such counsel to its members and their families;" (Plaintiff's Exhibits: No. 4, Tr 44; No. 5, Tr 44; No. 12, Tr 64; No. 12A, Tr 65; No. 13, Tr 66; No. 14, Tr 66; No. 15, Tr 67; No. 16, Tr 68; No. 17, Tr 77; No. 18, Tr 104; No. 21, Tr 110; No. 35, Tr 189 and No. 78, Tr 286; Kennedy Deposition, pp. 115-116).

8. "has furnished to such counsel prompt notice of the injury or death of a member in railroad service for the purpose of aiding such counsel in obtaining legal employment by its members and their families;" (Plaintiff's Exhibits: No. 17, Tr 77 and No. 78, Tr 286; Nelson Exhibits K, Tr 172, and L, Tr 173; Defendant's Answer, par. 6, R 12).

9. "has solicited, and continues to solicit, the handling of such claims by such counsel;" (Plaintiff's Exhibits: No. 17, Tr 77 and No. 78, Tr 286; Nelson Exhibits K, Tr 172; and L, Tr 173; Defendant's Answer, par. 6, R 12; Kennedy Deposition, pp. 43 and 44; Depositions of McLaughlin, Olsen, Hodges, Clark, Gibson, Loman, Troxtell and Garwood).

10. "has paid the salaries of the Regional Investigators (whose chief function is to solicit legal employment of such counsel to prosecute such claims);" (Nelson Exhibits K, pp. 79-80, Tr 172 and L, Tr 173; Chase Exhibits C through J, Tr 387-398).

11. "has advised, and continues to advise, members and the families of deceased members that the Regional (or, Legal) Counsel will defray expenses and make advances during the pendency of claims;" (Plaintiff's Exhibits: No. 17, Tr 77 and Nos. 38-66D, Tr 193-201; Kennedy Deposition, pp. 94-96).

12. "has accepted, both directly and indirectly, a share of the counsel's fees;" (Plaintiff's Exhibits: No. 4, Tr 44; No. 5, Tr 44; No. 12, Tr 64; No. 12A, Tr 65; No. 13, Tr 66; No. 14, Tr 66; No. 15, Tr 67; No. 16, Tr 68; No. 17, Tr 77; No. 18, Tr 104; No. 19, Tr 109; No. 20, Tr 110; No. 21, Tr 110; No. 22, Tr 112; No. 23, Tr 113; No. 25, Tr 122; No. 26, Tr 123; No. 27, Tr 125; No. 28, Tr 125; No. 28A, Tr 125; No. 28B, Tr 126; No. 29, Tr 128; No. 30, Tr 129; No. 31, Tr 133 and No. 35, Tr 189; Nelson Exhibit A, Tr 144; Chase Exhibits G through J, Tr 391-398; Kennedy Deposition, pp. 8-13).

13. "and has countenanced the sharing of the fees of such counsel by the Regional Investigators and others who

procure legal employment for such counsel." (Nelson Exhibits J through K, Tr 171-172).

14. "Various courts throughout the several states in which the practices of the defendant Brotherhood have been subjected to inquiry have reached similar findings of facts and have enjoined the continuance of such practices by the defendant Brotherhood and its Regional (Legal) Counsel." (Plaintiff's Exhibits: Nos. 17-31, Tr 77-133).

15. "The defendant Brotherhood has made protestations on occasions prior to April 1, 1959, that it would discontinue the objectional aspects of the plan and has from time to time made protestations that it has done so; yet it is admitted in the Brotherhood's answer that these practices continued up to April 1, 1959." (Plaintiff's Exhibits: Nos. 17-31, Tr 77-133; No. 75, Tr 284 and No. 76, Tr 285; Defendant's Answer, R. 11-14, and More Particulars Furnished, R. 30-33).

16. "The court finds that the defendant Brotherhood still adheres to the pattern and design of the plan formulated and implemented in 1930." (Chase Exhibits H through J, R. 391-398; Kennedy Deposition; Depositions of McLaughlin, Olsen, Hodges, Clark, Gibson, Loman, Troxtell and Garwood).

BROTHERHOOD'S POSITION UNTENABLE

Petitioner contends that the decision of the Supreme Court of Appeals of Virginia in *NAACP v. Harrison*, 202 Va. 142, 116 S.E. 2d 55, now before this Court, conflicts with the holding in the instant case (P. 16-17). A mere comparison of the two cases discloses the obvious fallacy of that contention. Respondent did not rest its case

on the Virginia statutes defining and regulating the practice of law. Nor does that decision prohibit or restrict the exercise of the alleged rights claimed in this petition.

Petitioner must consider this Court naive indeed to accept petitioner's statements of "The sole objective of the Brotherhood of Railroad Trainmen, its officers, agents, servants, employees, and its members" (P 12, 17, 18-19) in the light of the record and the Chancery Court's findings of fact (R 150-152, PA 2-4). Petitioner disingenuously insinuates that its 5% share in the gross settlements made by its sixteen selected attorneys, paid out of the contingent fees charged by them as fixed by petitioner, constituted no part of its motivation in formulating and implementing its plan for Legal Aid. Reference to Nelson Exhibit A (Tr 144), Chase Exhibit F (Tr 390), and Kennedy Exhibit K-4 (Kennedy dep., p. 100) alone suffice to establish the enormous financial interest of both the Brotherhood and its selected attorneys in channeling the claims of its members to those attorneys. Nelson Exhibits I and J (Tr 169, 171) reveal also the financial interest of the individual members who "run" the cases of their fellow members to the selected attorneys.

Petitioner, in elaboration of the second question which it undertakes to present (P 18-26), seems to suggest that the Federal Railway Act, when it authorized the Brotherhood to handle its members' "grievances", thereby granted to the Brotherhood the right to represent its members in FELA actions, i.e. the right to practice law in the several states unhampered by "any rule or doctrine of State Laws" (P 8, 18). That such was the intent of the Congress when the Federal Railway Act was adopted or that such is now its effect is incredulous and not worthy of serious comment.

CONCLUSION

Respondent submits that the petition for the writ of certiorari to the Supreme Court of Appeals of Virginia should be denied.

Respectfully submitted,

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December 8, 1962.

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W. F. DAVIS, CLERK

In The
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1963.

NO. 34.

BROTHERHOOD OF RAILROAD TRAINMEN,
Petitioner,

v.

COMMONWEALTH OF VIRGINIA, ex rel
Virginia State Bar,
Respondent.

**ON WRIT OF CERTIORARI TO THE SUPREME
COURT OF APPEALS OF THE
COMMONWEALTH OF VIRGINIA**

BRIEF FOR PETITIONER

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In The
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1963.

NO. 34.

BROTHERHOOD OF RAILROAD TRAINMEN,
Petitioner,

v.

COMMONWEALTH OF VIRGINIA, ex rel
Virginia State Bar,
Respondent.

ON WRIT OF CERTIORARI TO THE SUPREME
COURT OF APPEALS OF THE
COMMONWEALTH OF VIRGINIA

BRIEF FOR PETITIONER

OPINION BELOW

No opinion was rendered by either the Supreme Court of Appeals of Virginia, or the Chancery Court of the City of Richmond, Virginia, other than the findings of fact by the Chancery Court, incorporated in its decree of January

20, 1962, which was affirmed by the Supreme Court of Appeals. (R 25-28)

JURISDICTION

The judgment of the Supreme Court of Appeals of Virginia was entered on June 12, 1962, (R 35), and Petition for rehearing was denied on August 21, 1962, (R. 36). The Petition For Writ of Certiorari was filed on November 9, 1962, and was granted on February 18, 1963. This Court has jurisdiction of this cause pursuant to Title 28, United States Code, Sec. 1257 (3).

THE QUESTIONS PRESENTED

(1) Whether the Brotherhood of Railroad Trainmen and its members have the right to make known to its members generally, and to injured members and survivors of deceased members in particular, first, the advisability of obtaining legal advice before making settlement of their claims, and second, the names of competent attorneys to handle such claims, and whether these rights are protected by the First and Fourteenth Amendments to the Constitution of the United States?

(2) Whether the Federal Railway Act, which authorizes the Brotherhood to represent its members generally and specifically to handle their "grievances", creates such an interest in the Brotherhood, that it has the right to make known to its members the advisability of obtaining legal advice and to make known the names of competent counsel in connection with rights of members under the Federal Employers' Liability Act, notwithstanding any rule or doctrine of State law?

**STATUTES INVOLVED, WITH REGULATIONS
DEFINING THE PRACTICE OF LAW, AND FEDERAL
CONSTITUTIONAL PROVISIONS**

Code of Virginia, 1950, Sections 54-48, 54-49, 54-50, 54-51.

Section 54-83.1 of the Code of Virginia, 1950, enacted in 1954.

Sec. 54-48. Rules and regulations defining practice of law and prescribing codes of ethics and disciplinary procedure.—The Supreme Court of Appeals may, from time to time, prescribe, adopt, promulgate and amend rules and regulations:

- (a) Defining the practice of law.
- (b) Prescribing a code of ethics governing the professional conduct of attorneys at law and a code of judicial ethics.
- (c) Prescribing procedure for disciplining, suspending, and disbarring attorneys at law.

Sec. 54-49. Organization and government of Virginia State Bar.—The Supreme Court of Appeals may, from time to time, prescribe, adopt, promulgate and amend rules and regulations organizing and governing the association known as the Virginia State Bar, composed of the attorneys at law of this State, to act as an administrative agency of the Court for the purpose of investigating and reporting the violation of such rules and regulations as are adopted by the Court under this article to a court of competent jurisdiction for such proceedings as may be necessary, and requiring

all persons practicing law in this State to be members thereof in good standing.

Sec. 54-50. Fees.—The Supreme Courts of Appeals may, from time to time, prescribe, adopt, promulgate and amend rules and regulations fixing a schedule of fees to be paid by members of the Virginia State Bar for the purpose of administering this article, and providing for the collection and disbursement of such fees; but the annual fees to be paid by any attorney at law shall not exceed the sum of ten dollars.

Sec. 54-51. Restrictions as to rules and regulations.—Notwithstanding the foregoing provisions of this article, the Supreme Court of Appeals shall not adopt or promulgate rules or regulations prescribing a code of ethics governing the professional conduct of attorneys at law, which shall be inconsistent with any statute; nor shall it adopt or promulgate any rule or regulation or method of procedure which shall limit or supersede the jurisdiction of the courts to deal with the discipline of attorneys at law as provided by law; nor shall there be any rule or regulation or method of procedure adopted and promulgated which will provide for any additional method for the trial of attorneys in disbarment or suspension proceedings except those now provided for by statute, and in no case shall an attorney be tried for the violation of any rule or regulation adopted under this article except by a court of competent jurisdiction.

Sec. 54-83.1. Injunction against running, capping, soliciting and maintenance.—The Commonwealth's Attorney, or any person, firm or corporation against whom any claim for damage to property or damages for personal injuries or for death resulting therefrom,

is or has been asserted, may maintain a suit in equity against any person who has solicited employment for himself or has induced another to solicit or encourage his employment, or against any person, firm, partnership or association which has acted for another in the capacity of a runner or capper or which has been stirring up litigation in such a way as to constitute maintenance whether such solicitation was successful or not, to enjoin and permanently restrain such person, his agents, representatives and principals from soliciting any such claims against any person, firm or corporation subsequent to the date of the injunction.

PART SIX

INTEGRATION OF THE STATE BAR

I.

DEFINING THE PRACTICE OF LAW

The principles underlying a definition of the practice of law have been developed through the years in social needs and have received recognition by the courts. It has been found necessary to protect the relation of attorney and client against abuses. Therefore it is from the relation of attorney and client that any definition of the practice of law must be derived.

The relation of attorney and client is direct and personal, and a person, natural or artificial, who undertakes the duties and responsibilities of an attorney is none the less practicing law though such person may employ others to whom may be committed the actual performance of such duties.

The gravity of the consequences to society resulting

from abuses of this relation demands that those assuming to advise or to represent others shall be properly trained and educated, and be subject to a peculiar discipline. That fact, and the necessity for protection of society in its affairs and in the ordered proceedings of its tribunals, have developed the principles which serve to define the practice of law.

Generally, the relation of attorney and client exists, and one is deemed to be practicing law, whenever he furnishes to another advice or service under circumstances which imply his possession and use of legal knowledge or skill.

Specifically, the relation of attorney and client exists, and one is deemed to be practicing law, whenever—

(1) One undertakes for compensation, direct or indirect, to advise another, not his regular employer, in any matter involving the application of legal principles to facts or purposes or desires.

(2) One, other than as a regular employee acting for his employer, undertakes, with or without compensation, to prepare for another legal instruments of any character, other than notice or contracts incident to the regular course of conducting a licensed business.

(3) One undertakes, with or without compensation, to present the interest of another before any tribunal—judicial, administrative, or executive—otherwise than in the presentation of facts, figures, or factual conclusions, as distinguished from legal conclusions, by an employee regularly and bona fide employed on a salary basis, or by one specially employed as an expert in respect to such facts and figures when such presentation by such employee or expert does not involve the

7
examination of witnesses or preparation of pleadings.
(171 Va. XVII)

★ Federal Statute involved is the Federal Railway Labor Act (45 U.S.C.A. Section 151-164).

CHAPTER 8—RAILWAY LABOR ACT RAIL- ROADS, EXPRESS AND SLEEPING CAR COMPANIES

Sec. 151. Definitions; "Railway Labor Act"

Sec. 151a. General Purposes

The purposes of the chapter are: (1) To avoid any interruption to commerce or to the operation of any carrier engaged therein; * * *

Sec. 152. General Duties

First. Duty of carriers and employees to settle disputes.

It shall be the duty of all carriers, their officers, agents, and employees to exert every reasonable effort to make and maintain agreements concerning rates of pay, rules and working conditions, and to settle all disputes, whether arising out of the application of such agreements or *otherwise*, in order to avoid any interruption to commerce or to the operation of any carrier growing out of any dispute between the carrier and the employees thereof. (Emphasis supplied)

Second. Consideration of disputes by representatives

Third. Designation of representatives

Fourth. Organization and collective bargaining; free-

dom from interference by carrier; assistance in organizing or maintaining organization by carrier forbidden; deduction of dues from wages forbidden

Fifth. Agreements to join or not to join labor organizations forbidden

Sixth. Conference of representatives; time; place, private agreements

Seventh. Change in pay, rules or working conditions contrary to agreement or to Section 156 forbidden

Eighth. Notices of manner of settlement of disputes; posting

Ninth. Disputes as to identity of representatives; designation by Mediation Board; secret elections

Tenth. Violations; prosecution and penalties

Sec. 153. National Railroad Adjustment Board

First. Establishment; composition; powers and duties; division; hearings and awards

Second. Establishment of system, group or regional boards by voluntary agreement.

Sec. 154. National Mediation Board

First. Board of Mediation abolished; National Mediation Board established; composition; term of office; qualifications; salaries; removal

Second. Chairman; principal office; delegation of powers; oaths; seal; report

Third. Appointment of experts and other employees; salaries of employees; expenditures

Fourth. Delegation of powers and duties

Fifth. Transfer of officers and employees of Board of Mediation; transfer of appropriation

Sec. 155. Functions of Mediation Board

First. Disputes within jurisdiction of Mediation Board

Second. Interpretation of agreement

Third. Duties of Board with respect to arbitration of disputes; arbitrators; acknowledgment of agreement; notice to arbitrators; reconvening of arbitrators; filing contracts with Board; custody of records and documents

Sec. 156. Procedure in changing rates of pay, rules, and working conditions

Sec. 157. Arbitration

First. Submission of controversy to arbitration.

Second. Manner of selecting board of arbitration.

Third. Board of arbitration; organization; compensation; procedure.

Sec. 158. Agreement to arbitrate; form and contents; signatures and acknowledgment; revocation.

Sec. 159. Award and judgment thereon; effect of charter on individual employee

First. Filing of award.

Second. Conclusiveness of award; judgment.

Third. Impeachment of award; grounds.

Fourth. Effect of partial invalidity of award.

Fifth. Appeal; record.

Sixth. Finality of decision of circuit court of appeals,

Seventh. Judgment where petitioner's contentions are sustained.

Eighth. Duty of employee to render service without consent; right to quit.

Sec. 160. Emergency Board.

Sec. 161. Effect of partial invalidity of chapter.

Sec. 162. Appropriation.

Sec. 163. Repeal of prior legislation; exception.

Sec. 164. Repealed: (Emphasis supplied)

CONSTITUTION OF THE UNITED STATES OF AMERICA AMENDMENT I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

AMENDMENT XIV

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or prop-

erty, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT

1. History of the case.

The Virginia State Bar filed its suit in the Chancery Court of the City of Richmond, Virginia, on June 29, 1959, against the Brotherhood, Bernard M. Savage of Baltimore, Maryland, Norris W. Tingle, Investigator, for the Brotherhood and alleged inter alia:

That the Brotherhood maintained a Legal Aid Department to collect information for the welfare of its members, and solicited business through its employees and members for attorneys selected and designated as Legal Counsel.

The solicitation was conducted as follows:

When lodge members were injured or killed in the course of employment * * * secretaries or some other member, notified the Legal Aid Department of the injury or death; * * * in many cases both the lodge to which the injured man belongs * * * acting through its Regional Investigator advised the injured person or his family * * * that the claim against the * * * employer should not be settled without consulting * * * Legal Counsel; * * * (R 1, 2, 3, 4).

That Legal Counsel handled the claims on a contingent fee fixed by the Brotherhood, and together with other Legal Counsel, he supported the Legal Aid Department.

It was further alleged that the Brotherhood, Savage, as Legal Counsel for an area including Virginia, and Tingle, as Investigator, were engaging in such practices in the City of Richmond, and the Commonwealth of Virginia, and that said practices constituted the unauthorized practice of law in Virginia by each of the defendants. (R 1, 2, 3, 4)

The Brotherhood admitted in its answer that prior to April 1, 1959, Legal Counsel handled cases for injured members and estates of deceased members, on contingent fee basis, and that Legal Counsel made contributions to the Department of Legal Counsel. (R 4, 5, 6)

The Brotherhood alleged in its bill of particulars and showed by evidence that after April 1, 1959, it eliminated the objectionable practices, as alleged, because the Supreme Court of Illinois had determined the practices objectionable in a suit filed for declaratory judgment by the Brotherhood.¹ (R 7, 8, 9, 50, 51, 52, 57, 58, 59, 131)

The Brotherhood by its amended answer, and by written motion to strike plaintiff's evidence, alleged that the practices in which it was engaged did not constitute the practice of law, and further, that it had the right to make available investigative reports of accidents to an injured member or his survivors; and in addition, it had the right to inform a member to consult and employ an attorney to protect his rights, and that these rights were protected by the First and Fourteenth Amendments to the Federal Constitution. (R 12, 13, 22, 23)

The Bar introduced in evidence certified copies of records

¹ In re Brotherhood of Railroad Trainmen, 13 Ill (2d) 391, 150 N.E. (2d) 163.

of suits in Ohio and New York against Regional Counsel of the Brotherhood, showing the fee arrangements of counsel to be 25% of anything recovered for a member, with 5% of same being paid by Counsel to the Legal Aid Department for its support.³ (R 465, 471-72, 484, 800)

The Bar also introduced in evidence copies of records of suits involving the plan of operation by the Petitioner in several states, which included Illinois, Oklahoma and Missouri.³ (Plf.'s Exs. 27, 29, 30; R 492, 493, 495, 496, 855, 857, 859) The decrees in the Oklahoma and Missouri cases were consent decrees, and should not have been admitted in evidence over Petitioner's motion to strike.

The allegations in the suits in Illinois, Oklahoma and Missouri showed that the plan of operation of the Legal Aid Department had been modified subsequent to the cases in Ohio and New York, and was identical with the plan as alleged by the Bar herein.

The Bar did not introduce any evidence to specifically show the plan of operation of the Brotherhood in Virginia prior or subsequent to the date of its suit. However, the Court found as a fact:

that there is reasonable ground of apprehension that this plan and course of conduct will in furtherance of the defendant Brotherhood's avowed purpose, be

³ In re Petition of the Committee on Rule 28 of the Cleveland Bar, 15 Ohio L. Abs. 106 (Ct. App 1933)

In re O'Neill, 5 F. Supp 465 (E.D. NY 19)

³ In re Brotherhood of Trainmen, *supra*; State of Okla ex rel Okla. Bar Assn. v. Brotherhood of Railroad Trainmen.

Fred B. Hulse et al v. Brotherhood, 340 SW (2d) 404-15.

adopted and put into effect in the City of Richmond within the jurisdiction of the Court. (R 25, 26, 27, 28)

In an elaborate decree, after making certain findings of fact, the lower Court enjoined the Brotherhood, its officers, agents, servants, employees and its members, acting in its behalf, among other things:

from holding out lawyers selected by it as the only approved lawyers to aid the members or their families * * * or in any other manner soliciting or encouraging such legal employment of the selected lawyers * * * and from formulating and putting into practice any plan, pattern or design, the result of which is to channel legal employment to any particular lawyer or group of lawyers * * * and, in general, from violating the laws governing the practice of law in the Commonwealth. (R 25, 26, 27, 28) (Emphasis supplied)

Whereupon, Petitioner brought the cause to this Court.

2. Material Facts Concerning the Organization and Character of the Petitioner and the Operation of its Department of Legal Counsel.

The Petitioner is a railway labor organization composed of a Grand Lodge with subordinate lodges, and obligated in its relationship with railroad employers by the terms of the Railway Labor Act, and all other pertinent acts of the Acts of Congress.* (Plf. Exhibits 1, 17, 18, 19, 20,

* Federal Railway Labor Act (45 U.S.C.A. Sections 151-164).
In re Petition of Committee on Rule 28 of Cleveland Bar, 15 L.Abs. 106

27; R 439, 443, 460, 464, 465, 481, 484, 493, 495, 496, 733, 800, 825)

The Petitioner is a labor organization not for profit, composed of members engaged in hazardous occupations and bonded together for mutual protection and advancement.⁵ (Plf. Exhibits 1, 17, 18, 19, 20, 27; R 439, 443, 460, 464, 465, 481, 484, 733, 800, 813, 825)

3. The Reasons For Establishing the Legal Aid Department.

The Brotherhood, after investigating accidents of members and settlement of their claims, found they had fared rather badly at the hands of railroad claims agents, and further, that sometimes its members fell into the hands of incapable, indolent, inexperienced or dishonest lawyers with resulting loss to claimants. It also found the compensation exacted by lawyers was too much. To protect its 200,000 members, who were engaged in hazardous work, the officers of the Brotherhood recommended the establishment of the Legal Aid Department.⁶ (Plf. Exhibits 12, 12A, 17; R 457, 465, 779)

4. Legal Aid Department Established.

The Petitioner established in 1930 its Legal Aid Department, now named Department of Legal Counsel, after

⁵ Int re Petition of Committee on Rule 28 of Cleveland Bar, 15 L.Abs. 106

In re Ryan v. Pennsylvania, 268 Ill App 364, 373.

⁶ In re Brotherhood of Railroad Trainmen, 13 Ill (2d) 391, 150 N.E. (2d) 163.

In re Petition of Committee on Rule 28 of Cleveland, 15 L.Abs. 106.

a referendum questionnaire and a majority vote from the members of the lodges of The Trainmen in the United States. The Legal Aid Department is subject to the provisions of the Constitution of the Brotherhood and authority of its President. (Plf. Exs. 1, 4, 12, 14; R 39, 40, 439-40, 457-58, 733, 751-52, 756-60, 779)

The Department of Legal Counsel maintains a central office in Cleveland, Ohio, and it has a staff consisting of a chief clerk and stenographer. (R 130) Formerly it had a number of regional investigators and a larger staff.⁷ (R 122, 859)

In the early part of 1961, regional investigators were discontinued by the Brotherhood, and the secretaries of the various lodges, who reported accidents in compliance with the Constitution of the Brotherhood, made investigation of accidents when requested to do so by Petitioner. (R 65, 66, 69, 71, 106, 121, 124)

Operating in conjunction with the Department of Legal Counsel are approximately sixteen lawyers, each designated by the Brotherhood as Legal Counsel. While most of the lawyers are members of the Brotherhood, membership is not a prerequisite to becoming Legal Counsel. (R 64, 65)

Legal Counsel must be qualified to handle claims of injured members under the F.E.L.A. and Safety Appliance Act, and generally qualified to handle other legal matters for the Brotherhood. (R 64)

⁷ Hulse, et al v. Brotherhood of Railroad Trainmen (Mo) 340 SW (2d) 404-15.

5. *Evidence Adduced at the Trial.*

A. PETITIONER FILED SUIT FOR DECLARATORY JUDGMENT.

A suit for declaratory judgment was filed by the Petitioner in the Supreme Court of Illinois to determine its rights in the protection of its members when injured or killed in railroad accidents.⁹ (Plf. Ex. 27; R 57, 58, 59, 60, 856, 857)

B. THE SUPREME COURT OF ILLINOIS APPROVED THE FOLLOWING ACTIVITIES OF THE PETITIONER.

1. Brotherhood may maintain a staff to investigate injuries of its members.

2. Brotherhood may make the reports of those investigations available to an injured man or his survivors.

3. Brotherhood may also make known to its members generally, and to injured members and their survivors in particular, first, the advisability of obtaining legal advice before making settlement, and second, the names of attorneys who in its opinion, have the capacity to handle such claims successfully. (R 57, 58, 59, 60)

THE ILLINOIS COURT DISAPPROVED THE FOLLOWING ACTIVITIES

1. Employees of Brotherhood may not carry contracts

⁹ In re Brotherhood of Railroad Trainmen, 13 Ill (2d) 391, 150 N.E. (2d) 163.

for employment of any lawyer, or photostats of settlement checks.

2. No financial connection of any kind between the Brotherhood and any lawyer is permissible.

3. No lawyer can properly pay any amount whatsoever to the Brotherhood or any of its departments, officers, or members as compensation, reimbursement of expenses or gratuity in connection with the procurement of a case.

4. Nor can the Brotherhood fix the fees to be charged for services to its members. The relationship of the attorney to his client must remain an individual and a personal one.

C. THE PETITIONER IS IN COMPLIANCE WITH THE ILLINOIS DECISION.

The evidence shows that, since the Illinois opinion, the Brotherhood no longer receives contributions from Legal Counsel; for the support of its Department of Legal Counsel, nor does it set the fee to be charged for services rendered its members. (R 57, 58, 59, 60, 128, 129, 130, 131)

D. THE PETITIONER NOTIFIED ALL LEGAL COUNSEL AND ITS INVESTIGATORS TO COMPLY WITH THE DECISION OF THE ILLINOIS COURT.

After the opinion in the Illinois case, the Petitioner's President notified Legal Counsel and its Investigators to comply with the decision. (R 50, 51, 52, 128, 129, 130, 131, 958, 959)

E. PETITIONER'S MEMBERS MAY EMPLOY COUNSEL OF THEIR OWN CHOOSING.

The evidence shows that Petitioner's members may employ Legal Counsel of the Brotherhood or an attorney of their choice, and negotiate the fee to be paid the attorney. (R 63, 164, 187, 756, 757, 758, 759, 760, 761, 762, 763)

F. CONTROL OF LITIGATION.

The Petitioner's purpose is to make competent counsel available to injured members and families of deceased members and thereafter the member and his attorney control the litigation. The rules and regulations in force prior to the Illinois case provided that when lawyer-client relationship was established between a member and his attorney, then all actions thereafter were taken by the member and his attorney. (Plf. Ex. 5; R 62, 63, 64, 756, 757, 758, 759, 760, 761, 762, 763)

G. ACCIDENT INVESTIGATIONS.

Accident investigations were made by the Petitioner for two purposes. First, to use the evidence secured to assist an injured or family of a deceased member, and second, to use the evidence in hearings before the Interstate Commerce Commission, so that railroad safety laws might be improved. (R 45, 62, 63, 64, 67, 68)

SUMMARY OF ARGUMENT

The Petitioner is a non-profit, membership labor organization, having an interest in the welfare of its injured members, this being inherent in the very nature of the organization, which was originally formed to protect rail-

road employees and their widows from the disastrous consequences of railroad injuries and deaths. In that era, the average life expectancy of a switchman in 1893 was 7 years. Griffith, *The Vindication of a National Public Policy under the Federal Employees' Liability Act*, 18 *Law and Contemporary Problems*, 160 at 63. The early organization was fraternal and for the purpose of providing insurance benefits to members totally disabled, or to the next of kin of members killed in railroad services.

The interest of Petitioner in its members is personal, not pecuniary. It is but the medium through which its individual members seek to more effectively protect injured members and families of deceased members. See: *Harrison v. NAACP*, 360 U.S. 167, 79 S.Ct. 1025, 1030, 3 L.ed. (2d) 1152.

There is a community of interest between the Petitioner and its members, and in every practical sense they are identical. *NAACP v. Alabama, ex rel Patterson*, 357 U.S. 449, 459, 78 S.Ct. 1163, 1176, 2 L.ed. (2d) 1488.

The activities of the Petitioner and its members in the operation of Department of Legal Counsel are but modes of expression and association which are protected by the First and Fourteenth Amendments of the Federal Constitution. *NAACP v. Button*, 371, U.S. 415.

It cannot be shown that the enjoining of Petitioner's activities bear any reasonable relation to the end of maintaining the integrity of the judicial process or the ethical standards of the legal profession, or that there is a compelling state interest within the state's constitutional powers. Therefore, the decree herein is violative of the First Amendment freedoms and of the due process and equal protection clause of the Fourteenth Amendment of the

Federal Constitution. NAACP v. Button, 371 U.S. 415. Cf Schwane v. Board of Bar Examiners, 353 U.S. 232, Konigsberg v. State Bar of California, 353 U.S. 252; Nebbie v. N.Y., 291 U.S. 502; Skinner v. Okla., 316 U.S. 585.

For the reasons aforesaid, the Petitioner contends that the decree herein denies due process and equal protection to it, its members and Legal Counsel under the Fourteenth Amendment of the Federal Constitution, and violates rights which are protected under the First Amendment of the Federal Constitution, and the Railway Labor Act.

ARGUMENT

(1) Whether the Brotherhood of Railroad Trainmen and its members have the right to make known to its members generally, and to injured members and survivors of deceased members in particular, first, the advisability of obtaining legal advice before making settlement of their claims, and second, the names of competent attorneys to handle such claims, and whether these rights are protected by the First and Fourteenth Amendments to the Constitution of the United States?

I.

CASES ARISING UNDER THE PLAN OF THE BROTHERHOOD

Many cases concerning the plan of the Brotherhood have arisen in various states. Some of these shall be discussed hereafter.

In re Petition of Committee of Rule 28 of Cleveland Bar Association, 15 Ohio L.Abs. 106, which was an injunction

and disciplinary action against Regional Counsel of the Brotherhood, the Court refused to enjoin counsel, but in a 2 - 1 decision, it reprimanded Regional Counsel. Justice Levine dissented, saying in part:

I am constrained to dissent from the decision of the majority of this Court for the reasons hereinafter set forth.

A careful review of the evidence makes it apparent that the charge lodged against the appellants is purely technical. It is not claimed by the Cleveland Bar Association Committee that the appellants are engaged in what is ordinarily termed "ambulance chasing". Such a claim would be emphatically refuted by the evidence. The technical charge is that the appellants violated Rule 28 of the Supreme Court and of the canon of ethics, by reason of their acting as Regional Counsel for the Brotherhood of Railroad Trainmen, it being alleged that the Legal Aid Department of the Brotherhood of Railroad Trainmen, is, in its nature, a soliciting organization, and that therefore, when the appellants undertake to represent any member of the Brotherhood of Railroad Trainmen, who are referred to them by the Legal Aid Department, they do so in violation of Rule 28 of the canon of ethics.

The record discloses certain undisputed facts which I shall enumerate.

1. The Brotherhood of Railroad Trainmen is the largest single labor organization in the world, having a membership of 175,000 and its executive officers are located in Cleveland.
2. The Brotherhood of Railroad Trainmen, through its legislative representative at Washington, was largely instrumental in securing the passage of the

Federal Employers' Liability Act, the Safety Appliance Act and other national remedial legislation applying to Railroad Trainmen.

3. Beginning with the convention of 1916, the Brotherhood of Railroad Trainmen passed the necessary resolution for the establishment of a Legal Aid Department, which was designated to protect its members and to secure for its injured members or the widows of members killed in railroad service, the full benefits of the remedial Federal Acts.

* * *

5. President A. F. Whitney of the Brotherhood of Railroad Trainmen caused a thorough investigation to be made in 1928 and 1929, after a plan had been carefully considered by several committees of the Brotherhood, the plan was submitted to a vote of the lodges and the formation of the Legal Aid Department was approved by an almost unanimous vote and finally the Legal Aid Department of the Brotherhood started to function on or about the 1st day of May, 1930.

In view of the conflicting opinion among two groups of lawyers constituting the committee on Rule 28 of the Cleveland Bar Association as to whether the conduct of the appellants is a violation of Rule 28, it may be necessary for the Supreme Court to add something by way of clarification to Rule 28. Until that time, the appellants cannot in all fairness be charged with the unethical conduct such as to justify a reprimand on the part of this court or any other court.

In *Ryan v. Pennsylvania R. Co.*, 268 Ill. App. 364, 373 (1932), the Defendant contended, among other things, that the contract between Regional Counsel and his client,

who was a member of the Brotherhood, was unenforceable because it was secured by solicitation, which violated public policy. The Court made a clear distinction between legal aid and unlawful soliciting, which bears quoting in this connection.

After a careful consideration of all the facts we are satisfied that these contentions and arguments are without merit, and we feel impelled to say that the assertion that the Brotherhood, through its legal aid department, is akin to an ambulance chaser and that the petitioner was a beneficiary of an unethical and unlawful system of obtaining clients, is unworthy of the able lawyers that made it. The Brotherhood is a labor organization, composed of men engaged in hazardous occupations and who are banded together for mutual protection and advancement. The evidence established that it organized the legal aid department for the sole purpose of protecting its injured members or their families * * *. The evidence, introduced by the respondent, shows clearly the worthy purpose of the department and the necessity for its organization and maintenance.

Subsequent to the Ryan Case, the Illinois Legislature enacted a statute⁹ making it unlawful for a person, not

⁹ 13-15 of Illinois Revised Statute

It shall be unlawful for any person not an attorney at law to solicit for money, fee * * or other remuneration * * any demand for personal injury or death.

13-16 Violation Penalties

13-17 of Illinois Revised Statute, 1961 reads:

Any contract of employment of an attorney obtained or made as a result of a violation of this act shall be void and unenforceable. (July 11, 1957, p. 2587, Sec. 3)

an attorney, to solicit for money or other remuneration any personal injury claim. The Court applied the statute in the case of *In re Brotherhood of Railroad Trainmen*, *infra*.

In *re Brotherhood of Railroad Trainmen*, 13 Ill. (2d) 391, (1957), 150 N.E. (2d) 163, the Brotherhood filed suit for declaratory judgment, with the participation of the Illinois State and Chicago Bar Associations, and a group of twenty-seven railroad companies. The Court did not approve the plan as it was then operating, but did give directions to the Brotherhood in its opinion as follows:

What has been said would ordinarily be sufficient. The Brotherhood, however, has frankly and openly placed its problem and its own solution of it before the court, and asked for guidance. We think, therefore, that it is appropriate to indicate in broad outline what the Brotherhood may do with respect to the injury and death claims of its members.

The objective of the Brotherhood in seeking to secure competent legal representation of its members can be accomplished without lowering the standards of the legal profession. The Brotherhood has a legitimate interest in investigating the circumstances under which one of its members has been injured. That interest antedates the occurrence of any particular injury. We are of the opinion that the Brotherhood may properly maintain a staff to investigate injuries to its members. It may so conduct those investigations that their results are of maximum value to its members in prosecuting their individual claims, and it may make the reports of those investigations available to the injured man or his survivors. Such investigations

can be financed directly and without undue burden by the 218,000 members of the Brotherhood.

The Brotherhood may also make known to its members generally, and to injured members and their survivors in particular, first, the advisability of obtaining legal advice before making a settlement; and second, the names of attorneys who, in its opinion, have the capacity to handle such claims successfully.

Thus, the Illinois Court recognized that if the Brotherhood adhered to the principles and directions set out in its opinion, there would be no conflict of interest which statutes and codes of ethics seek to prevent.

Subsequent to the Illinois opinion, the Supreme Courts of Missouri¹⁰ and Oklahoma¹¹ heard cases involving the plan of the Brotherhood, and the Oklahoma Court incorporated the Illinois opinion in its decree as though fully set out therein.

In re O'Neill, 5 F. Supp. 465, was a disciplinary action against Regional Counsel under the plan of the Brotherhood. Although the evidence showed that the Brotherhood and its members referred cases to Regional Counsel, the Court directed its attention to the sole question of the fee splitting arrangement and held that O'Neill would not be permitted to proceed with the cases he was handling, until he had filed an affidavit in each case showing that

¹⁰ Hulse, et al v. Brotherhood of Railroad Trainmen, 340 SW (2d) 404-15.

¹¹ State of Okla., ex rel Okla. Bar Assn. v. Brotherhood of Railroad Trainmen, Plf. Ex. 29 (R 855).

the contract with the Brotherhood had been rescinded, and the Brotherhood no longer received any part of his fee.

The Court said:

As to so much of the union activity this Court is prepared to believe that the organization was performing a *valuable service to its members*. (Emphasis supplied)

In the case of Hildebrand v. State of California, 36 Cal. (2d) 504, 225 P. (2d) 508 (1950), which was a disciplinary suit against Regional Counsel, alleging unethical solicitation under the legal aid plan of the Brotherhood, the charges were sustained; however, Justices Carter and Traynor vigorously dissented.

Justice Carter in describing the plan of the Brotherhood said in part:

The Brotherhood here involved is an organization composed of persons, who are protected by the Federal Employers' Liability Act, *supra*, and their employees are subject to its provisions. *Hence there is a manifest community of interest between the employee and their organization, which justifies the latter in the procurement of legal aid investigation services, all of which directly ties in the rights and remedies established by the F. E. L. A.*

*Thus, we do not have a case where the purpose, motive and result is stirring up of litigation * * *. It is nothing more than a proper joining of forces for the*

accomplishment of a proper legal objective of mutual protection. (Emphasis supplied)

Justice Traynor said:

There are situations, however where an attorney's association with a lay organization fulfills a legitimate interest of the organization or its members and *presents no conflicting interest or other abuses*. Such arrangements may be tolerated even when lay agency is actively engaged in soliciting business as liability insurance companies. The Brotherhood attorneys bear the same relation to members as an insurance defense attorney does to the insurance company. * * * Referring associations make the referrals, not for compensation but solely to help its members secure legal assistance. The essential objective of the instant plan is not to obtain clients for an attorney. It is to enable the organization (the Brotherhood) to assist its members in a matter of vital concern to them. It does not urge its members to avail themselves of the service in order to bring business to the counsel, or stir up litigation. (Emphasis supplied)

The Illinois Court, in the Brotherhood Case, recognized the problems of the Brotherhood in endeavoring to protect its injured members, and established a new and enlightened policy toward the plan of the Brotherhood, and inferentially held that Canon 35 did not apply to the Brotherhood. However, in taking this forward step, the Court did not lower the ethical standards of the legal profession.

Mr. Henry S. Drinker, who was Chairman of the American Bar Association Committee on Legal Ethics

when it adopted Canon 35, is of the opinion that no support for proscribing such referrals, as in the instant case, can be found in present Canon 35, and would himself prefer to have the Canon revised to permit even an arrangement whereby unions, and corporations, may employ lawyers to render free legal services to their members, or employees, as individuals.

Mr. Drinker said, in his well-known treatise:

It is not believed that the Canon (35) will prevent the labor unions from finding lawyers to advise their members. The whole modern tendency is in favor of such arrangements, including particularly employer and cooperative health services, the principles of which, if applied to legal services would materially lower and spread the total cost to the lower income groups. The real argument against their approval by the bar is believed to be loss of income to the lawyers and concentration of service in the hands of fewer lawyers. These features do not commend the profession to the public. Drinker, *Legal Ethics* 167 (1953) (footnotes omitted).

The following commentaries on the BRT case (13 Ill. (2d) 391) are unanimous in the view that legal ethics permit rather than prohibit an association's referral of its members to an attorney who represents the association, where the attorney's compensation is derived exclusively from the referred member and is dependent upon the voluntary arrangement between the attorney and the referred member:

(1) Note, 53 N.W. U.L.Rev. 276, 279 N. 14 (1958)

The decision has focused attention on the clash between the interest of the members of the Brotherhood in securing adequate counsel to prosecute personal injury claims against railroads, and the interest of the legal profession in maintaining higher standards of professional conduct. The unusual approach taken by the court represents a significant step in the direction of an accommodation of these conflicts.

* * *

No cases can be found which hold that attorneys who accept employment with members of an organization, by virtue of the recommendation of such organization are violating canon 35. * * *

(2) 47 Ill. Bar J. 410, 416 (1958)

Mere referral by an organization of one of its members to an attorney solely because of the organization's belief in the attorney's competence, has never been regarded as a breach of the canons, so long as no financial arrangement exists between the attorney and the organization. * * *

In re: Seidman, 240 N.Y.S. (2d) 592 (App. Div. 1930), the Court, in dismissing disciplinary proceeding brought against an attorney on the ground of solicitation, held at page 594-595:

In the case of William A. Cookley, it is clearly established that there was no solicitation of his case by respondent, but that he was recommended to Cookley by Walter Carr, the delegate and business

agent of the Int. Longshoremen's Assoc; that such recommendation was in line of his duty as walking delegate; that he knew both Cookley and respondent; and that he called upon respondent's office on the telephone, told the latter's employee that one of his men had been injured, gave Cookley's name and address, and asked that respondent take care of the case. What followed was the result of this action by Carr, and, no improper act by respondent is proved.

Also see 20 Pitts Law Review 85, and 107 U. Pa. L. Rev. 387, 398 (1959), for a comprehensive analysis of cases involving the problems and activities of the Brotherhood in the operation of its Department of Legal Counsel.

II.

THE ACTIVITIES OF PETITIONER AND ITS MEMBERS IN THE PRESENT OPERATION OF THE DEPARTMENT OF LEGAL COUNSEL, INCLUDING THE ACTS DESCRIBED IN THE DECREE "AS HOLDING OUT LAWYERS", "AS SOLICITING" AND "OR ENCOURAGING LEGAL EMPLOYMENT OF SELECTED LAWYERS" ARE MODES OF FREE EXPRESSION AND ARE PROTECTED CONSTITUTIONALLY.

In 1956 Virginia amended the provision of its Code forbidding solicitation of legal business in the form of running and capping.¹³ Virginia also by statute authorizes

¹³ Chapters 33 and 36, Acts of Assembly, Ex. Sess., 1956, codified as Code of Virginia, 1950, Sections 54-78, 54-79, 54-82, 54-83. The Supreme Court of Appeals declared Chapter 36 of Acts of Assembly invalid in *NAACP v. Harrison*, 202 Va. 154, 116 SE (2d) 65; and this Court declared Chapter 33 invalid in *NAACP v. Button*, 371 U.S. 415.

injunction suits for running and capping.¹³ In addition, the Supreme Court of Appeals of Virginia has the right by statute to prescribe, and adopt rules and regulations defining the practice of law.¹⁴

Respondent in its brief in opposition to the Petition for Writ of Certiorari, said:

Respondent did not rest its case on the Virginia statute defining and regulating the practice of law.

The complaint in the instant case does not indicate law principle, statute, canon of ethics, or rule of court, in support of its claim that the activities of the Brotherhood, Savage, as Legal Counsel, and Tingle, as Investigator, constitute the unauthorized practice of law. It appears likely that Respondent relies upon the Canons of Professional Ethics, 35 and 47¹⁵, and/or the Court's "inherent power, apart from statute, to inquire into * * * unau-

¹³ 54-83.1, code of Va., 1950, supra.

¹⁴ Sections 54-48, 54-49 of the code of Virginia, 1950.

¹⁵ 171 Va. pp XXII-XXXIII, XXXV (1938). Canon 35 reads in part as follows: "*Intermediaries.*—The professional services of a lawyer should not be controlled or exploited by any lay agency, personal or corporate, which intervenes between client and lawyer. A lawyer's responsibilities and qualifications are individual. He should avoid all relations which direct the performance of his duties by or in the interest of such intermediary. A lawyer's relation to his client should be personal, and the responsibility should be direct to the client. Charitable societies rendering aid to the indigent are not deemed such intermediaries." Canon 42 reads as follows: "*Aiding the Unauthorized Practice of Law.*—No lawyer shall permit his professional services, or his name, to be used in aid of, or to make possible, the unauthorized practice of law by any lay agency, personal or corporate."

thorized practice * * *". (Richmond Assn. of Credit Men v. Bar Assn., 167 Va. 327-335-336)

However, it is clear that the claim for relief is not founded upon any law "narrowly drawn to define and punish specific conduct as constituting a clear and present danger to a substantial interest of the State." *Cantwell v. Connecticut*, 310 U.S. 296, 311; *Thornhill v. Alabama*, 310 U.S. 88, 105.

This Court has recently reviewed the cases and commentaries defining "Unlawful Solicitation" of legal business, common law barratry, maintenance and champerty in *NAACP v. Button*, 371 U.S. 415.

To the extent, if any, that the Bar here relies upon the Canons, then the case of *NAACP v. Button*, *supra*, has already decided that both the Canons and the Statute involved in that case were too vague to be applied to the area of free speech. See: *NAACP v. Button*, 371 U.S. at 429 and 432-438. It is also clear that any common law conception of the unauthorized practice of law is subject to the same objection, for the Court said in *NAACP v. Button*, that,

Broad prophylactic rules in the area of free expression are suspect,

and that

Precision of regulation must be the touch stone in an area so closely touching our most precious freedoms.

See: *NAACP v. Button*, 371 U.S. at 438. As pointed

out in *Thornhill v. Alabama*, 310 U.S. 88, the vice of such laws is that they are potently capable of many unconstitutional applications thus stifling and deterring free expression.

The Bar's case here is substantially weaker than the State's case in *NAACP v. Button*, *supra*. That case involved a criminal law that would impose punishment only after unlawful expression, but in the instant case the Bar seeks an injunction which would impose a "previous restraint" on expression. See: *Thomas v. Collins*, 323 U.S. 516, 518; *Neor v. Minnesota*, 283 U.S. 697, 711-716, both invalidating injunctions against free expression as unlawful "previous restraints."

This Court further said in *NAACP v. Button*, that abstract discussion is not the only species of communication which the Constitution protects; that the First Amendment also protected vigorous advocacy of lawful ends against governmental intrusion. *Thomas v. Collins*, 323 U.S. 516, 537, 65 S.Ct. 315, 325, 89 L.ed. 430; *Herndon v. Lowry*, 301 U.S. 242, 259-264, 57 S.Ct. 732, 739-742, 81 L.ed. 1066. Cf. *Cantwell v. Connecticut*, 310 U.S. 296, 60 S.Ct. 900, 84 L.ed. 1213; *Stromberg v. California*, 283 U.S. 359, 369, 51 S.Ct. 532, 535, 75 L.ed. 1147; *Terminiello v. Chicago*, 337 U.S. 1, 4, 69 S.Ct. 894, 895, 93 L.ed. 1131.

This Court also said that the Sherman Act did not apply to certain concerted activities of railroads "at least insofar as those activities comprise mere solicitation of governmental action with respect to the passage and enforcement of laws" because "such a construction of the Sherman Act would raise important constitutional questions," specifically, First Amendment questions. *Eastern R.R. Presi-*

gents Conference v. Noerr Motor Freight, Inc., 365 U.S. 127, 138, 81 S.Ct. 523, 530, 5 L.ed. (2d) 464.

This Court further said in the NAACP case 371 U.S. 415:

* * * that only a compelling state interest in the regulation of a subject within the State's constitutional power to regulate can justify limiting First Amendment freedoms. * * * For a State may not, under the guise of prohibiting professional misconduct, ignore constitutional rights. See *Schwartz v. Board of Bar Examiners*, 353 U.S. 232, 77 S.Ct. 752, 1 L.ed. 2d 796; *Konigsberg v. State Bar*, 353 U.S. 252, 77 S.Ct. 722, 1 L.ed. 2d 810. Cf. *in-re Sawyer*, 360 U.S. 622, 79 S.Ct. 1376, 3 L.ed. 2d 1473. In *NAACP v. Alabama ex rel Patterson*, 357 U.S. 449, 461, 78 S.Ct. 1163, 1471, 2 L.ed 2d 1488, we said "In the domain of these indispensable liberties, whether of speech, press, or association, the decisions of this Court recognize that abridgment of such rights, even though unintended, may inevitably follow from varied forms of governmental action." Later, in *Bates v. Little Rock* 361 U.S. 516, 525, 80 S.Ct. 412, 4 L.ed 2d 480, we said, "where there is a significant encroachment upon personal liberty, the State may prevail only upon showing a subordinating interest which is compelling." Most recently, in *Louisiana ex-rel. Gremillion v. NAACP*, 366 U.S. 293, 297, 81 S.Ct. 1333, 1336, 6 L.ed. 2d 301, we reaffirmed this principle: " * * * regulatory measures * * * no matter how sophisticated, cannot be employed in purpose or in effect to stifle, penalize, or curb the exercise of First Amendment rights."

* * *

Malicious intent was of the essence of the common-law offenses of fomenting or stirring up litigation.¹⁶ And whatever may be or may have been true of suits against government in other countries, the exercise in our own, as in this case, of First Amendment rights to enforce constitutional rights through litigation, as a matter of law, cannot be deemed malicious. Even most modern, subtler regulations of unprofessional conduct or interference with professional relations, not involving malice, would not touch the activities at bar; regulations which reflect hostility to stirring up litigation have been aimed chiefly at those who urge recourse to the courts for private gain, serving no public interest.¹⁷

The instant case and the NAACP case are similar. Both are non-profit organizations, with members, and designated lawyers. The NAACP advocates and finances litigation, including the payment of attorney's fees. The Brotherhood advises its injured members to obtain legal advice before making settlement of their claims and suggests names of attorneys to handle their claims, but it does not try to control litigation of its members. The sole

¹⁶ See e.g., *Commonwealth v. McCulloch*, 15 Mass. 227 (1818); *Brown v. Beauchamp*, 5 T.B.Mon. 413 (Ky 1827); *Perkins, Criminal Law*, 449-454 (1957); Note, 3 *Race Rel.* 1257-1259 (1958).

The earliest regulation of solicitation of legal business in England was aimed at the practice whereby holders of claims to land conveyed them to great feudal lords, who used their power or influence to harass the titleholders. See Winfield, *the History of Conspiracy and Abuse of Legal Procedure*, 152 (1921).

¹⁷ See Comment: A Critical Analysis of Rules against Solicitation by lawyers, 25 *U. of Chi. L. Rev.* 674 (1958). But truly nonpecuniary arrangements involving the solicitation of legal business have been frequently upheld. * *

purpose and motive of the Brotherhood is to assist its members in a matter of vital concern to them; and it has no desire to stir up litigation, or to obtain clients for an attorney.

There is nothing in the plan of the Petitioner which requires its members to employ an attorney, who is recommended to the member. The member may employ an attorney of his own choosing.

The State Bar introduced the following witnesses, who testified on direct examination on this subject:

Clifford D. Olson (R 164):

By Mr. Beal:

Q. Now, Cliff, would you relate in your own words to the best of your recollection what, if anything, Mr. Clinkenbeard and Mr. Ballieu said to you at the time they contacted you at the hospital?

A. Well, they informed me that they were representatives, which I knew Ballieu was, of the railroad Brotherhood of Trainmen, and advised me of rights under the by-laws of the Brotherhood of Trainmen.

Q. And what else, if anything, was said by them?

A. Well, they informed me that I could use legal aid if I so wanted to do so.

Bettie J. Olsen (R 187)

By Mr. Beal:

Q. I'd like to ask one more question. Mrs. Olsen, you testified that Mr. Clinkenbeard advised you that you

could hire some other lawyer if you wanted to, is that correct?

A. Yes.

Q. Did he express any definite preference to you as to who you should hire or retain?

A. I can't remember.

William P. Kennedy (R 63)

By Mr. Bowles:

A. * * * And so the individual knows very little about his legal rights, and so all we do is to notify them as to their legal rights and suggest that they confer with a competent and qualified attorney for further handling.

* * *

Q. Yes. Now, then you also advise him that he can have the services of your selected counsel whom you deem competent if he wants them?

A. If he chooses to do so, yes, sir.

Q. That is right. Now, in the serious cases you advise him to get your counsel, don't you?

A. We suggest that if he is interested he can go to our counsel. He doesn't necessarily have to use our counsel.

Q. But you do advise him to do that?

A. If he wants to. We don't force him to do it if that's against his will. He can go to any counsel he chooses to do so. (Emphasis supplied).

The Bar's Exhibit 5, which covers the Rules and Regulations Governing Relations of Regional Counsel and the

Brotherhood of Railroad Legal Aid Department, which was in force prior to the Illinois Case reads in part: (R 762)

In cases where members have exhausted their efforts in attempts to procure settlement, they will be referred to regional attorneys, with whom contracts may be made for the prosecution of their claims. It must be understood that (fol. 572) the Brotherhood cannot undertake to control the actions of members in this regard, and that they will remain free to employ attorneys of their own choice. (Emphasis supplied)

Can it be said that when the Brotherhood recommends to its injured members, having claims under a federal statute, that they consult Legal Counsel, it is urging "recourse to the courts for private gain" and is serving "no public interest"? Clearly there is no "private gain" to the Brotherhood, nor can such a suit, for compensation, be seriously considered as one for the "private gain" of an injured member or his next of kin. And since a workman's compensation statute is not available to him, can it be said that a suit under the FELA by an injured member, or his survivor, is "the use of legal machinery to oppress"? Is not the litigation process expressly sanctioned by this federal statute, or does the federal sanction stop short at the courthouse door?

As for the question concerning the control of litigation through the intervention of a lay intermediary, the majority said in the NAACP case:

There has been no showing of a serious danger here of professionally reprehensible conflicts of interest

which rules against solicitation frequently seek to prevent * * *. *Id.* at 442-443.

Under the Brotherhood plan, there is no conflict of interest as between the Brotherhood and the injured member, and therefore, no danger that Legal Counsel will be faced with conflicting allegiances. Furthermore, under the Brotherhood plan, unlike the NAACP plan, counsel is compensated by the client, and there is no interference whatever with the traditional attorney-client relationship.

III.

THE DECREE BELOW ENJOINS OTHER ACTIVITIES OF THE BROTHERHOOD WHICH ARE PROTECTED BY THE FIRST AND FOURTEENTH AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES.

The lower courts also expressly forbade the Brotherhood, its officers, agents, servants and employees and its members acting in its behalf

from doing any act or combination of acts, and from formulating and putting into practice any plan, pattern or design, the result of which was to channel legal employment to any particular lawyer or group of lawyers.
(Emphasis supplied)

The Court did not define the word "channeling" in its decree; therefore, we must look to Webster's New World Dictionary for a definition of the word "channeling":

Any means of passage; course through which some

thing moves or passes; the proper or official course of transmission of communication, as in the Army.
(Emphasis supplied)

The decree, which was affirmed by the Supreme Court of Appeals, is so broad that if several members of the Brotherhood were injured in the same train accident, and by chance occupied the same hospital room, the Brotherhood, its officers or members acting in its behalf could not advise the injured members to seek assistance of any particular lawyer or group of lawyers for this would be channeling legal business.

In addition, the decree proscribed any arrangement by which the Brotherhood, its officers, agents, servants and employees and its members acting in its behalf, could advise members to seek the assistance of particular attorneys. In this respect the decree is similar to the decree in *NAACP v. Button*, *supra*.

The Brotherhood and its members are in every practical sense identical. *NAACP v. Alabama, ex rel Patterson*, 357 U.S. 449, 459, 78 S.Ct. 1163, 1176, 2 L.ed. 2d 1488. It is but the medium through which its individual members seek to more effectively protect injured members and also families of its deceased members. See: *Harrison v. NAACP*, 360 U.S. 167, 177, 79 S.Ct. 1025, 1030, 3 L.ed. 2d 1152.

The activities of the Petitioner and its members in the operation of the Department of Legal Counsel are but modes of expression and association which are protected under the First and Fourteenth Amendments. *NAACP v.*

Button, *supra*; Gibson v. Florida, 371 U.S. 539, 31 Law Week 4311, NAACP v. Alabama, 357, U.S. 449; Bates v. Little Rock, 361, U.S. 516; Shelton v. Tucker, 364 U.S. 479.

The decree herein limits all freedom of expression when directed to the protection of injured members and families of deceased members, and this Court said in Thomas v. Collins, 323 U.S. 516, 537, 65 S.Ct. 315, 326, 89 L.ed. 430:

"'Free trade in ideas' means free trade in the opportunity to persuade to action, not merely to describe facts." Thomas was convicted for delivering a speech in connection with an impending union election under National Labor Relations Board auspices, without having first registered as a "Labor organizer". He urged workers to exercise their rights under the National Labor Relations Act and join the union he represented.

This Court held that the registration requirement as applied to his activities was constitutionally invalid.

The differences between the NAACP plan and the Brotherhood plan need not be belabored. Suffice it to say, it is apparent from the minority opinion, as it is from the majority opinion, that the Brotherhood has a constitutionally protected right to refer its members having FELA claims to attorneys where the Brotherhood is not compensated for the referral and does not control counsel's compensation, or the litigation.

IV.

THE ACTIVITIES OF THE BROTHERHOOD ARE NOT UNLAWFUL AND DO NOT LOWER THE ETHICAL STANDARDS OF THE PRACTICE OF LAW.

The Petitioner concedes that the State of Virginia may regulate the practice of law to insure the highest ethical standards, but Petitioner's present activities do not threaten ethical standards of the Legal Profession. Since the opinion of the Supreme Court of Illinois. (*In Re: Brotherhood of Railroad Trainmen*, *supra*) the Brotherhood receives no contribution from Legal Counsel for the support of its Department of Legal Counsel, and it no longer sets the fee to be charged its members by attorneys.

The interest of Petitioner in seeing that its injured members and families of deceased members are directed to competent counsel is personal, not pecuniary. The interest was born of necessity, because the Brotherhood found that railroad claim agents were taking advantage of injured members, and further, that the average lawyer was inexperienced and unable to successfully handle claims under the FELA and Safety Appliance Act¹⁸ against experienced railroad lawyers. (Plf. Exs. 12, 12A, 17, 27; R. 42, 48, 49, 779, 780, 781, 800, 810, 812, 814.)

The decision: (*In re Heirich*, 10 Ill. 2d 357, 140 N.E. 2d 825. (1957)) further demonstrates why the Brotherhood was compelled to protect its members from railroad claim

¹⁸ In Petition of the Committee of Rule 28 of the Cleveland Bar Assn., 15 L.Abs. 106.

In re: Brotherhood of Railroad Trainmen, 13 Ill. (2nd) 391.

agents. There, in discussing the disbarment proceedings against a successful personal injury claimant's attorney, the majority of the court stated, at 130 N.E. 2d 836:

We further take judicial notice of respondent's exhibit 48, rejected by the Commissioners, being a report of the Railroad Retirement Board to the senate committee on Interstate Commerce, which we believe bears directly on its proceeding. That report shows a general course of conduct and a highly antagonistic attitude of the railroads towards all employees who retain counsel to defend their rights; that in Federal Employers' Liability cases settled without counsel, 97% of the employees returned to work for the railroad; while if suit was filed, from 80% to 96% of such employees lost their jobs. * * * The report states in part: "In some cases indeed, the claim agents go much further with implied threats that if suit is filed, the claimant would never be able to work for any big company again, or would receive references so unfavorable as to amount to blacklisting." The report further states: "The experience for all cases in which bargaining could be measured in these terms is summarized in table 5. In non-attorney cases bargaining resulted in a settlement which was on the average of 60% to 78% higher than the initial offer. Where an attorney was engaged, the initial bid was on the average more than doubled before the case was closed. In cases where the attorney felt it advisable and persuaded his client to file suit, the gross amount recovered was on the average of three or four times larger than the figures originally named by the claim agent."

* * *

We are compelled to the conclusion that this proceeding was more than an impartial investigation of unethical practices by a bar association with the sole desire to protect the public and the profession. The record indicates that it was an adversary proceeding between the railroads and one of their antagonists. The time and energy of the railroads devoted to this proceeding might well have been spent in perfecting a code of ethics for railroad claim adjusters and in requiring its observance, for the improper activities of claim adjusters develop the climate in which solicitation of the type complained of in this proceeding may thrive.

Statute and ethical standards do not prevent liability insurance companies from hiring attorneys to protect their commercial and property rights; and it is well known that banks and trust companies refer clients to attorneys who in turn are known to favor trust provisions in wills.

A regulation, canon or statute which condones legal assistance by one concerned with property rights and prohibits assistance to members of a non-profit organization, like the Petitioner, surely violates the equal protection clause of the Fourteenth Amendment. (See *Mayflower Forms v. Ten Eyck*, 297 U.S. 266; *Skinner v. Oklahoma*, 316 U.S. 585; *Morey v. Doud*, 354 U.S. 457)

It has not been shown that the decree restraining the Brotherhood from informing its injured members to consult and employ attorneys to protect their rights bears any reasonable relation to the end of maintaining the integrity of the judicial process or the ethical standards of the legal profession or that there is a compelling state interest within the state's constitutional power; therefore, those provisions

of the decree objected to are violative of the First Amendment freedoms and the due process and equal protection clauses of the Fourteenth Amendment Cf. *Schwane v. Board of Bar Examiners*, 353 U.S. 232; *Konigsberg v. State Bar of California*, 353 U.S. 252; *Nebbia v. New York*, 291 U.S. 502; *Skinner v. Oklahoma*, *supra*.

There should be no conflict between the interest of Virginia in the ethical standards of its Bar and the Brotherhood's interest in recommending competent counsel to its membership.

The Court is not being asked to decide whether or not Virginia may discipline an attorney for soliciting legal business among the membership of the Association which he represents.

The Petitioner did not understand that when the Illinois Court in *re Brotherhood of Railroad Trainmen*, *supra*, approved of the Brotherhood's making known to its members generally and to injured members and their survivors in particular, first the advisability of obtaining legal advice before making settlement of their claims, and second, the names of attorneys, who in its opinion, have the capacity to handle such claims, the Court was approving the blanket solicitation of claims of injured members by recommended attorneys.

The Illinois Court indicated in broad outline what the Brotherhood could do with respect to injury and death claims of members, and specifically said that the objective of the Brotherhood in seeking to secure competent legal representation of its members could be accomplished without lowering the standards of the legal profession.

V.

THE ASSOCIATION OF THE AMERICAN RAILROADS USES THIRD PARTY TECHNIQUE AGAINST THE BROTHERHOOD

The hand of the Association of American Railroads can be seen giving assistance to counsel for the Virginia State Bar in the prosecution of the Brotherhood, and its legal Counsel. Practically every witness who gave a deposition against the Brotherhood in this case admitted that a representative of the Association of American Railroads secured him as a witness for the State Bar. (R 147, 209, 255, 278, 324, 326, 327, 330, 368, 404, 567)

Counsel for the Virginia State Bar admitted in the record that he was being assisted by representatives of the Association of American Railroads. (R. 567, 634)

Therefore, it would not be unfair to infer that the Association of American Railroads has encouraged litigation against the Brotherhood and its Counsel in this case, since it would be to its advantage to prevent the Brotherhood from (1) telling its members to obtain legal advice before making settlement of their claims, and (2) referring their members to competent attorneys. For third party technique of railroads see: Eastern R. R. President Conference v. Noerr Motor Freight Lines, 365 U.S. 127.

(2) Whether the Federal Railway Act, which authorizes the Brotherhood to represent its members generally and specifically to handle their "grievances", creates such an interest in the Brotherhood, that it has the right to make known to its members the advisability of obtaining legal advice and to make known the names of competent counsel

in connection with rights of members under the Federal Employers' Liability Act, not withstanding any rule or doctrine of State law?

VI.

VIRGINIA CANNOT CONSTITUTIONALLY PROHIBIT THE BROTHERHOOD FROM INFORMING ONE ANOTHER OF FEDERALLY GRANTED RIGHTS AND REMEDIES.

The great body of federal labor law permits the organization of labor unions for mutual aid and protection. This right is granted the Petitioner here by virtue of the Railway Labor Act 45 U.S.C. § 151 et seq. It is squarely held to be the public policy of the United States in labor matters in the Norris-LaGuardia Act, 29 U.S.C. § 102 that the individual worker should be free from the interference, restraint or coercion of employers of labor, or their agents, in self-organization or in other concerned activities for the purpose of collective bargaining or other mutual aid or protection. These rights are also granted by the National Labor Relations Act which is in pari materia with the Railway Labor Act, *Order of Railway Telegraphers v. Ry. Exp. Agency* 321 U.S. 324, 346, 64 S.Ct. 582, 585 (1944).

The Brotherhood now asserts that the full ambit of the rights of association for mutual aid and protection necessarily includes the minimal rights to inform its injured members in the specific areas hereinabove referred to, (*Salt River Valley Water Users Association v. NLRB*, 206 F. (2d) 325). In this case the Court of Appeals for the Ninth Circuit held that the Zahjeros could in concert circulate a petition authorizing legal claims under the Fair Labor Standards Act of 1938. The Court said in holding the solicitation of these legal cases to be a protected concerted activity.

"Thus in a real sense circulation of the petition was for the purpose of 'mutual aid or protection'. The Association argues that any legal rights to back pay on the part of the Zanjeros were individual rights and that therefore there could be no 'mutual' aid or protection. But the Association ignores the fact that 'concerted activity for the purpose of * * * mutual aid or protection' is often an effective weapon for obtaining that to which the participants, as individuals, are already 'legally' entitled."

The nature of the Petitioner's interest in compensation for the deaths and personal injuries suffered by its members is historical for defendant union is unique in that its very existence is founded on the concern developed by railroad employees for their injured fellow employees and for the survivors of their fellow employees killed in railroad operations. This union was originally formed to protect fellow employees and their widows from the disastrous consequence of railroad injuries and deaths. In the era in which the Brotherhood of Railroad Trainmen was first organized, the average life expectancy of a switchman was seven years. *Griffith, The Vindication of a National Public Policy Under The Federal Employes' Liability Act*, 18 Law and Contemporary Problems 160 at 163. The infant union was fraternal in nature and served the purpose of providing insurance benefits to members totally disabled, or to the next of kin of members killed in the railroad service. It was not until later that the burden of collective bargaining was assumed. Seidman, *The Brotherhood of Railroad Trainmen*, John Wiley & Sons (1962), page 2.

Because of its concern with the plight of the injured Trainmen and with the survivors of Trainmen suffering death on the rails, the Brotherhood of Railroad Trainmen

was largely instrumental in securing the passage of the Federal Employers' Liability Act, the Safety Appliance Act and other national remedial legislation involving work injuries suffered by railroad Trainmen. See Dissent of Justice Levine, *In re Petition of Committee on Rule 28 of Cleveland Bar Association*, 15 L. Abs. 106. In the Brotherhood's Convention of 1916, a resolution was passed calling for the establishment of a Legal Aid Department in the said Brotherhood. The purpose of such Department was to protect the members and secure for the injured members, or the widows of members killed in railroad service, the full benefits of the remedial Federal Acts. After similar resolutions in subsequent conventions, President A. F. Whitney of the Brotherhood caused a thorough investigation to be made in 1928 and 1929 and submitted the reports of the investigation and question of the formation of a Legal Aid Department to a vote of the constituent lodges of the Trainmen. The establishment of the Legal Aid Department was approved by the member lodges by a ratio of over 11 to 1. The newly established Department started to function on or about the 1st day of May-1930. The Supreme Court of Illinois correctly summarized the reasons for the establishment in stating (*Brotherhood of Railroad Trainmen*, 13 Ill. 2d 391, 150 N.E. 2d 163, 165, 1958):

"There is no serious dispute as to the basic facts. In 1930 the Brotherhood established its 'Legal Aid Department'. It took this step because it felt that under pressure from railroad claim agents, the claims of its members resulting from injuries they suffered in their work were being settled for unfair amounts. Some of the railroads forced settlements by the threat of loss of employment. At the same time, the members were being solicited by lawyers of varying degrees of competence who sought to, and did, handle the

claims of members for contingent fees that sometimes ran as high as fifty per cent of the amount recovered."

The Illinois Court, however, found that the Railway Labor Act was not intended to overthrow the state "regulation" of the legal profession or of the unauthorized practice of law.

The Court committed basic and fundamental error in so holding. The question is not whether state "regulation" is to be overthrown but is, instead, a question of the inter-relationship of state and federal interests. It is no answer to say that the federal interests will not be considered until the proponent of the federal interests establishes that the interest of the state has been obliterated. That "answer" announces a proposition of state rather than federal supremacy except when Congress openly and patently declares that it desires federal nullification of an entire body of state law.

As the Illinois Supreme Court states, the Brotherhood is authorized to represent its members before the National Railroad Adjustment Board or other appropriate tribunals in the processing of disputes growing out of grievances. But, the Court was *clearly in error* when it stated that these injury and death claims are not the kind of dispute that the statute contemplates. "Disputes" is a broad term and includes some of these claims in the opinion of this Court. Mr. Justice Rutledge in *E.J. & E v. Burley*, 325 U.S. 711, 65 S.Ct. 1282 (1945) provided, and established, the basis for the distinction between "major" and "minor" dispute under the Railroad Labor Act. Briefly, major disputes are matters to be resolved by collective bargaining while minor disputes must go to the National Railroad Adjustment Board. Speaking of the minor disputes as the second

of two classes, Mr. Justice Rutledge states at 325 U.S. 723, 65 S.Ct. 1290:

"The second class, however, contemplates the existence of a collective agreement already concluded or, at any rate, a situation in which no effort is made to bring about a formal change in terms or to create a new one. The dispute relates either to the meaning or proper application of a particular provision with reference to a specific situation or to an omitted case. In the latter event the claim is founded upon some incident of the employment relation, or asserted one, independent of 'those covered by the collective agreement, e.g., *claims on account of personal injuries*'. In either case the claim is to rights accrued, not merely to have new ones created for the future." (Emphasis supplied)

Considering this Court's specific statement that "claims on account of personal injuries" are "minor disputes" within the meaning of the Railway Labor Act, it is seen that the court below was myopic in failing to perceive any conflict between federal and state law. On the contrary, that court conjured up non-existent conflicts between the plan of Petitioner and the canons of ethics. (This is accepting the Bar's assertion in its Brief opposing the petition for writ of certiorari that its case was not rested on the Virginia statutes defining and regulating the practice of law [p.10]; subsequently held invalid by this court in *NAACP vs. Button*, 371 U.S. 415). The court adopts the attenuated reasoning of the majority opinion in *Hildebrand vs. State Bar of California*, 36 Cal. 2d 504, 225 P. 2d 508 (1950). In that case, the California Court held that the practices of the Legal Aid Department at that time were proper in the individual case, but improper because the general over-all plan resulted in a "channeling" of legal work to the petitioners.

The court below also relies on such "channeling" as resulting since the inception of the legal aid plan in 1930 (Record 25, 26, 27, 28). Moreover, the court below enjoins any act or combination of acts, or any plan, design or pattern which results in a "channeling" of legal employment to any lawyer or group of lawyers (Record 27, 28).

For reasons adverted to above, such a broad decree must be held to be constitutionally invalid because of its infringement of the rights of freedom of speech and freedom of association. Considered apart from such rights, reliance on "channeling" is a hyper-technical method by which all successful attorneys could be held to have violated the canons of ethics. This is seen when the Supreme Court of California's opinion is examined closely. That Court criticized the plan in *Hildebrand vs. State Bar of California*, 36 Cal. 2d 504, 225 P. 2d 508 (1950) because:

1. The Brotherhood had been remunerated and compensated for soliciting, directing and influencing the employment of petitioners by its members by means of a 6% contingent fee contract.

2. The Brotherhood received remuneration and compensation other than money in obtaining advantages or benefits from the plan.

The benefits obtained were:

1. The law suits of its injured members were handled by experienced lawyers and by means of a basic plan the members obtained what might be called "wholesale rates".

2. The service reasonably constituted an inducing cause for attracting membership in the Brotherhood and the payment of dues to the Brotherhood.

Since the Hildebrand opinion, the separate contingent fee contract to the Brotherhood has been eliminated. Since *In re Brotherhood of Railroad Trainmen*, 13 Ill. 2d 391, 150 N.E. 2d 163, 165 (1958), no financial connection of any kind between the Brotherhood and its Legal Counsel has been had. Since the passage of the 1951 amendment to the Railway Labor Act, the Brotherhood of Railroad Trainmen has been able to obtain additional members by acquiring collective bargaining contracts requiring such membership. 45 U.S.C. § 151b Eleventh. Considering the tenuous nature of the decision of the California Supreme Court, and considering the many changes in circumstances, it is surprising that the court below enjoined the "channeling" of legal employment and relied on the California decision. In so doing, the court ignored the decision of the Supreme Court of Illinois and placed reliance on various Consent Decrees entered in other states. This reliance was fundamentally erroneous because it is elementary law that a Consent Decree has no value as a precedent. *Texas & P. R. Co. v. So. Pac. Co.*, 137 U.S. 48, 11 S. Ct. 10 (1890); *Freuehauf Trailer Co. v. Gilmore*, 10th Cir. 167 F. 2d 324, 330.

On the other hand, none of the contested cases have found the plan of the Brotherhood to result in a "channeling" of legal employment. Each of those cases have found the plan of the Brotherhood to be based on worthy motives and purposes. Even in *Hildebrand vs. State Bar of California*, 36 Cal. 2d 504, 225 P. 2d 508 (1950), the majority opinion held on the different facts that in the individual case there was a proper reference or a proper contact made by the attorneys. The dissents, of course, are classic statements of the interests of the Brotherhood engaging in mutual aid and protection of the rights of its individual

members. The courts in *Doughty v. Gills*, 37 Tenn. App. 63, 260 S.W. 2d 379, and *In re O'Neill*, D.C.E.D.N.Y., 5 F. Supp. 465 were careful to point out that the helpful nature of the plan to the injured member was freely conceded and that the decision did not purport to bind the Brotherhood. See also *In re Petition of Committee of Rule 28 of Cleveland Bar Association*, 15 L. Abs. 106, 107.

Despite the unanimity of the opinion in the contested cases that the plan of the Brotherhood was established with proper motives, the court below found that the Brotherhood was improperly motivated throughout the operation of the legal aid plan and that the Brotherhood had never modified the said plan; relying particularly on the alleged admission made by the Brotherhood in its Answer. This is not suprising since the Bar in opposing the petition for writ of certiorari states that the legal aid plan was established for the purpose of obtaining monetary benefits by means of the 5% share in the original plan to cover the expenses of investigating the individual claims (Brief, p. 10).

Such statements, of course, are directly contrary to the finding of the Illinois Appellate Court in *Ryan vs. Pennsylvania Railroad Co.*, 268 Ill. App. 364, 374 (1932):

"After a careful consideration of all the facts we are satisfied that these contentions and arguments are without merit, and we feel impelled to say that the assertion that the Brotherhood, through its legal aid department, is akin to an ambulance chaser and that the petitioner was a beneficiary of an unethical and unlawful system of obtaining clients, is unworthy of the able lawyers who made it. The Brotherhood is a labor organization, composed of men engaged in haz-

ardous occupations and who are banded together for mutual protection and advancement. The evidence establishes that it organized the legal aid department for the sole purpose of protecting its injured members or their families in the matter of claims growing out of injuries sustained in the course of employment. The argument that the legal aid department was a solicitation scheme by which petitioner 'obtained many personal injury cases' is a most unfair one and entirely unwarranted under the evidence. The evidence, introduced by respondent, shows clearly the worthy purpose of the department and the necessity for its organization and maintenance."

The extreme conjecture used by the court below in arriving at its unwarranted conclusions is reminiscent of that indulged in by the Virginia Courts which was held invalid by this Court in *NAACP vs. Button*, 371 U.S. 442 (1963). It is submitted that the interests of labor unions are completely disregarded when such speculation and conjecture becomes the basis of injunctive relief. The English Courts for many years found nothing unethical in labor unions providing legal aid for their members. See Weihofen, "Practice of Law" by Non-Pecuniary Corporations: *A Social Utility*, 2, Univ. Chi. L. Rev. 119, 127 (1934). There is something wrong with rules which can be so misconstrued to defeat legitimate labor union purposes. See *A Critical Analysis of Rules Against Solicitation by Lawyers*, 25 Univ. Chi. L. Rev. 674 (1958).

The nature of the instant dispute as a dispute between capital and labor is shown by the extreme care and attention given this case by the Association of American Railroads. Practically every witness in the case was discovered and

interviewed by the association. The Bar's use of such assistance became so recognized by the court below that it forbade access to exhibits by said association. The Bar, of course, will contend that it is entitled to accept assistance from anyone, but it is equally clear that assistance is accepted only in cases against such unpopular groups as labor unions. The acceptance of such assistance is historical and has often resulted in situations where the organized bar is opposed to the organized labor unions. Because of such combination, the Bar again finds itself acting as an agent of the railroads contrary to the federal labor policy in attempting to deny to petitioner its federal right to organize for mutual aid and protection.

In doing so, the Bar is, of course, attempting to express its self-interest by means calculated to grant Virginia lawyers property rights in the cases of members of Trainmen injured in the state of Virginia. But one thing is certain, the Association of American Railroads is not aiding the Bar here in order to assist the pecuniary interests of Virginia lawyers. It, of course, is relying on the fact that claims under the Federal Employers' Liability Act are not self-executing and that there is no compensation board which will unilaterally see that the statute is made effective. Since the battlefield between employer and employee, by Act of Congress, is made the courtroom insofar as employee injuries are concerned, the Petitioner cannot fulfill its responsibilities in procuring employee benefits without informing, or placing its members in a position to be properly informed by qualified lawyers, of their legal procedures, rights and remedies. As Mr. Justice Frankfurter observed in *Assoc. of Westinghouse Salaried Employees v. Westinghouse Electric Corp.* 348, U.S. 437, 457, 75 S.Ct. 489, 499:

"If the union * * * is impotent to procure for the employee the benefits promised then it is bound to lose their support."

Indeed, this Court has recently decided that the unions may sue directly to enforce the collective bargaining contract and that the employee alternatively may sue individually on his grievance. *Smith vs. Evening News*, 371 U.S. 195, 83 S.Ct., 267.

Petitioner, however, has not sought any control over the personal injury claims of its members. It has, instead, sought to recommend lawyers with the member being entirely free to accept or reject such recommendation. The ruling of the court below is extremely unclear. It was suggested below that the State Bar had no power to proceed except in matters involving the unauthorized practice of law. No practice of law by the union is here involved. There is no conflict of interest between the Union and the injured member such as to bring into effect Canon 35, American Bar Association, dealing with intermediaries. The employment accepted as legal counsel is not an employment by the union but is, instead, a designation which may or may not result in an employment by an individual member or members.

The Decree below goes beyond anything in the Canons of Ethics in that it proscribes mere recommendation by a group, or its members, of an attorney who represents the group. This is so even though the attorney's compensation is derived exclusively from the referred client and is dependent upon the making of voluntary arrangements directly between the attorney and the referred client. No

support for the Decree can be derived from Canon 35. See Drinker, *Legal Ethics* 162 (1953).

Henry S. Drinker, Chairman of the Standing Committee on Professional Ethics, American Bar Association, in his classic work *Legal Ethics*, Columbia University Press, (1953), at page 167 states that the Canon should not prevent labor unions from finding lawyers to advise the members and specifically discusses the legal aid plan of the Brotherhood of Railroad Trainmen. In other labor areas the employees work in a common plant and are very easily referred to their labor union lawyer. See *Labor Union Lawyers: Professional Services of Lawyers to Organized Labor*, 5 Industrial and Labor Relations Review 343, 361 (1952). As the commentator states in *Legal Ethics and the Labor Union*, 46 Ill. L.R., 323, 325, (1951), in commenting upon the Hildebrand decision:

"To date most labor unions have not found it necessary to adopt formal legal aid plans. Though the formal arrangement is lacking, members still turn, usually, to the union's attorney for aid in their personal injury matters. Significantly, such has not been the result in the absence of a formal plan in the railroad industry. The peculiar characteristics of the railroad industry explain this difference. The Brotherhood's member is subjected to many working hazards. He works as an individual or in small groups and in many instances must travel from place to place. It becomes apparent that when an on-the-job injury occurs, oral directions as to proper legal action are not available to the injured as is the case in those industries where a union steward may be present to make the recommendation. Left on his own, the

individual can well fall prey to the incompetent lawyer and the omnipresent claim agent thereby losing whatever damages are rightfully his. The public policy embodied in workmen's compensation and federal employer's liability legislation demands that full retribution for the injury be received by the injured. If such a goal cannot be achieved on an individual level, the mere use of a collective mechanism (the union) certainly should not alter the validity of the underlying policy. It is anomalous to say that, though the legislation is sound, the underlying policy creditable, and the effectuating mechanism adopted for most purposes acceptable, yet a significant number of people must nevertheless take less than their due because operation under the mechanism may possibly subvert the morals of attorneys."

More than at any other time, the injured employee reasonably expects his union to stand by him and especially to protect his right to employment when he has recovered. The injured employee should not be compelled to choose between his job and his rights under the FELA. This choice, however, has been and continues to be the railroads' objective. The injury itself under railroad rules in the past terminated the contract of employment. See *Culver v. Kurn*, 354 Mo. 1158, 193 S.W. 2d 602 (1946). Later, the railroads relied on principles of "promissory estoppel" said to be involved in any settlement or judgment where the employee had claimed serious injury. See Award 17454, Volume 135, Awards of First Division, NRAB (1956). Lately, the railroads have been relying on "misrepresentation" in the application for employment as grounds for discharging employees who retain attorneys. See Award

19557, Volume 144, Awards of First Division, NRAB (1960).

Petitioner Brotherhood, of course, must prosecute these claims for reinstatement even though the employee retained attorneys other than Legal Counsel. Recently, the Petitioner Brotherhood filed a brief *amicus curiae* in the U.S. Supreme Court in a case of a negro member of Trainmen who had been discharged by the railroad because of alleged "misrepresentations" in his application for employment. When his case came to trial, the lower court directed a verdict against him because of the "misrepresentations". The Brotherhood urged in its brief that this defense be eliminated and that the Court declare that his rights as an employee be made absolute. The Court eliminated this defense in FELA actions except where the employee applies by using an imposter. *Still v. Norfolk & Western R. Co.*, 368 U.S. 35 82 S.Ct. 148 (1961). This Court thereby eliminated the basis in legal theory for the First Division's ignoring of the collective bargaining provisions which customarily make the applicant an employee if not rejected during a period of 30, 60 or 90 days.

The Brotherhood not only has the burden of protecting the injured employee's right to his job, but the interest of the Brotherhood in some cases is more direct and immediate because of the shadowy no man's land of distinctions between Railway Labor Act "grievances" and FELA "personal injuries." See *Builer v. Smith*, 104 So. 2d 868, 869 where the Florida Appellate Court held that the injured employee could not question the propriety or right of the railroad to give him the field test on which he was injured, but held that he had a remedy for such "grievance" under the Railway Labor Act. The petition for certiorari was

granted but dismissed after oral argument by the U.S. Supreme Court by a vote of 5 Justices against 4 on the ground that the litigation did not turn on the issue of the interrelationship of the Railway Labor Act and the FELA. The termination of that case, however, does not give support to the Illinois Supreme Court's earlier finding that FELA actions are not like the labor disputes contemplated by the Railway Labor Act. See *Smith v. Butler*, 366 U.S. 361, 81 S.Ct. 937 (1961).

The Canons of Ethics convey the image of a small town Bar. These conditions, of course, do not exist today in our largely metropolitan and urban civilization. Carlin, *Lawyers on Their Own*, Rutgers Univ. Press (1962) p. 156, 157. In our complex society, voluntary associations are experiencing an important urgency to make available to one another coordinated legal information of a reasonably uniform quality. This is unquestionably because such associations have found by experience that, left to their own resources, individual members may receive either incompetent legal assistance or may be deprived of their legal rights. A perfect example of this combining to receive better legal services is found in the railroad industry itself, where the Association of American Railroads maintains an elaborate Law Department to handle litigation, Governmental relations and other matters of a legal nature of general interest to the members of the Association. When called upon, the Association of American Railroad's Law Department gives advice not only to the A.A.R. Board of Directors, but to member roads and representatives from roads in matters of common concern before the Courts, the Interstate Commerce Commission and other administrative bodies. It keeps member roads informed as to proposed laws and maintains a General Claims Division which is

concerned with the Federal Employers' Liability Act claims of injured employees. (See: p. 80, Stipulation No. 52 of the Record in *Kennedy, etc., et al v. The Long Island Railroad Company, etc., et al*, Petition for Writ of Certiorari filed July 26, 1963, Docket No. 312). None of the States or bar associations have challenged the right of this voluntary association to supply these legal services to its members, although substantial legal business of the individual railroads is thereby channeled to the lawyers employed by the A.A.R. in a most direct and efficient manner.

There is nothing in the plan of the Petitioner which requires, compels and binds its members to recommend a particular lawyer to a fellow-employee. Many members recommend attorneys other than those designated under the legal aid plan for reasons of their own. This is in keeping with the general nature of the plan which is a voluntary association for the mutual aid and protection of the member in exercising rights granted by the Federal Employers' Liability Act. The plan has been changed to meet objections raised against it in the past 33 years. It is a plan of such freedom for the individual members in his choice of counsel that it is difficult to imagine any plan which, within the context of freedom, would more perfectly accommodate the interest of the Petitioner and of the injured member of the Petitioner with the interests of the organized bar. If the present plan is not possible, it is impossible solely because the Petitioner has an interest in the premises which will not be recognized by the organized bar.

CONCLUSION

For reasons stated above, it is respectfully submitted that the judgment below should be reversed and that this Court

should hold the Petitioner, its officers, agents, servants, employees and its members may make known to its members, generally, and to injured members and survivors of deceased members in particular, first, the advisability of obtaining legal advice before making settlement of their claims arising out of railroad accidents, and second, the names of attorneys, who in their opinion, have the capacity to handle such claims successfully and that these rights are protected by the First and Fourteenth Amendments to the Constitution of the United States, and the Railway Labor Act.

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In The
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1963

No. 34.

BROTHERHOOD OF RAILROAD TRAINMEN,
Petitioner,

v.

COMMONWEALTH OF VIRGINIA, ex rel,
Virginia State Bar,
Respondent.

On Writ of Certiorari to
The Supreme Court of Appeals of
the Commonwealth of Virginia

BRIEF FOR THE RESPONDENT

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ABBREVIATIONS

| | |
|---------|-------------------------------------|
| PC | Petition for Writ of Certiorari |
| PA | Appendix to Petition for Certiorari |
| RBO | Respondent's Brief In Opposition |
| R | Transcript of Record |
| PB | Brief for Petitioner |
| Pl. Ex. | Plaintiff's Exhibit |

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In The
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1963

No. 34.

BROTHERHOOD OF RAILROAD TRAINMEN,
Petitioner,

v.

COMMONWEALTH OF VIRGINIA, ex rel,
Virginia State Bar,
Respondent.

On Writ of Certiorari to
The Supreme Court of Appeals of
the Commonwealth of Virginia

BRIEF FOR THE RESPONDENT

OPINION BELOW

While it is true that no opinion was rendered by either the Supreme Court of Appeals of Virginia or the Chancery Court of the City of Richmond in this case, the findings of fact by the Chancery Court made in its final decree of January 29, 1962 (R. 25-28), constitute the factual basis therefor. The order of the Supreme Court of Appeals of Virginia of June 12, 1962 (R. 35) denying the appeal recited: "The court being of opinion that the said decree

is plainly right, doth reject said petition, and refuse said appeal and supersedeas, the effect of which is to affirm the decree of the Chancery Court." Petition to rehear that order was denied on August 31, 1962 (R. 36). 203 Va. lxx.

JURISDICTION

Respondent denies the jurisdiction of this Court to review the decree of January 29, 1962, of the Chancery Court of the City of Richmond (R. 25-28) under 28 U.S.C.A. § 1257 (3) because no question is presented that may be reviewed by this Court thereunder. The questions stated by the petitioner (PB 2) are not in dispute nor do they draw in question any matter upon which the jurisdiction of this Court is claimed. Respondent so contended in its Brief In Opposition (RBO 1-2). The writ of certiorari should be dismissed as improvidently awarded.

STATUTES INVOLVED

Petitioner has failed to set out the following Virginia statutes and canons of professional ethics:

Va. Code, 1950, § 54-42. Who may practice law.

—The following persons may practice law in this State:

All persons, male and female, who have heretofore

¹ Va. Code, 1950, § 8-476. "*** If the court shall deem the judgment, decree or order complained of plainly right, and reject the petition on that ground, the order of rejection shall so state, and no other petition therein shall afterwards be entertained." See also *Morgan v. Com.* (1913), 115 Va. 943, 79 S.E. 388.

obtained, or may hereafter obtain, a license to so practice under the laws of this State, and whose license has not been revoked, and who have paid the license tax prescribed by law.

Any person duly authorized and practicing as counsel or attorney at law in any state or territory of the United States, or in the District of Columbia, may for the purpose of attending to any case he may occasionally have in association with a practicing lawyer of this State practice in the courts of this State, in which case no fee shall be chargeable against such non-resident attorney. (Code 1919, § 3408; 1920, p. 66; 1922, p. 654; 1938, p. 334.)

Va. Code, 1950, § 54-83.1. Injunction against running, capping, soliciting and maintenance.—

The Commonwealth's attorney, or any person, firm or corporation against whom any claim for damage to property or damages for personal injuries or for death resulting therefrom, is or has been asserted, may maintain a suit in equity against any person who has solicited employment for himself or has induced another to solicit or encourage his employment, or against any person, firm, partnership or association which has acted for another in the capacity of a runner or capper or which has been stirring up litigation in such a way as to constitute maintenance whether such solicitation was successful or not, to enjoin and permanently restrain such person, his agents, representatives and principals from soliciting any such claims against any person, firm or corporation subsequent to the date of the injunction. (1954, c. 707.)

**Rules of Court, Part Six, Integration of The
State Bar, II. Canons of Professional Ethics:**

* * *

28. Stirring Up Litigation, Directly or Through Agents.—It is unprofessional for a lawyer to volunteer advice to bring a lawsuit, except in rare cases where ties of blood, relationship or trust make it his duty to do so. Stirring up strife and litigation is not only unprofessional, but it is indictable at common law. It is disreputable to hunt up defects in titles or other causes of action and inform thereof in order to be employed to bring suit, or to breed litigation by seeking out those with claims for personal injuries or those having any other grounds of action in order to secure them as clients, or to employ agents or runners for like purposes, or to pay or reward, directly or indirectly, those who bring or influence the bringing of such cases to his office, or to remunerate policemen, court or prison officials, physicians, hospital *attaches* or others who may succeed, under the guise of giving disinterested friendly advice, in influencing the criminal, the sick and the injured, the ignorant or others, to seek his professional services. A duty to the public and to the profession devolves upon every member of the Bar, having knowledge of such practices upon the part of any practitioner, immediately to inform thereof to the end that the offender may be disbarred.

* * *

35. Intermediaries.—The professional services of a lawyer should not be controlled or exploited by any lay agency, personal or corporate, which intervenes between client and lawyer. A lawyer's responsibilities

and qualifications are individual. He should avoid all relations which direct the performance of his duties by or in the interest of such intermediary. A lawyer's relation to his client should be personal, and the responsibility should be direct to the client. Charitable societies rendering aid to the indigent are not deemed such intermediaries.

A lawyer may accept employment from any organization, such as an association, club or trade organization, to render legal services in any matter in which the organization, as an entity, is interested, but this employment should not include the rendering of legal services to the members of such an organization in respect to their individual affairs.

* * *

47. Aiding the Unauthorized Practice of Law.

—No lawyer shall permit his professional services, or his name, to be used in aid of, or to make possible, the unauthorized practice of law by any lay agency, personal or corporate.

QUESTIONS PRESENTED

Petitioner fails to state the primary and controlling question presented:

Whether the decree of the Chancery Court of the City of Richmond does in fact enjoin, restrain or deprive petitioner of the rights claimed, to-wit, "the right to make known to its members generally, and to injured members and survivors of deceased members in particular, first, the advisability of obtaining legal advice before making settle-

ment of their claims, and second, the names of competent attorneys to handle such claims," whether protected by the First or Fourteenth Amendment or specifically authorized by the Railway Labor Act (PB 2).

Respondent contends that the decree does not in fact enjoin, restrain or deprive the petitioner of the rights so claimed but does enjoin the operation by the petitioner of a plan which through conspiracy on its part with a few selected lawyers results in fact in an intended monopoly and control of all the F.E.L.A. business in the United States of its members in the hands of those few selected lawyers.

STATEMENT OF THE CASE

Petitioner's statement (PB 11-19) is not only inadequate to acquaint this Court with the factual background necessary to an understanding of the problem presented but misrepresents the factual basis of the Chancery Court decree. Petitioner has selected and put together certain isolated parts of the record to create a favorable but untrue picture of its operations which only a full re-statement of the case can correct.

THE LEGAL AID DEPARTMENT UNDER PRESIDENT WHITNEY, 1930-1949

In 1930 petitioner's president, Alexander F. Whitney, established a Legal Aid Department at the Grand Lodge of the Brotherhood of Railroad Trainmen pursuant to a plan which had been proposed to the four leading railway unions by H. F. Fuller, their National Legislative Representative, at various times subsequent to the enactment of

the Federal Employers' Liability Act. Objections by the Order of Railway Conductors prevented adoption of the plan as a joint undertaking (Pl. Ex. 17 (c), R. 465, 806-809; Pl. Ex. 2, R. 442, 742-750; Pl. Ex. 3, R. 444, 751-755; Pl. Ex. 4, R. 445, 756-760; Pl. Exs. 12 and 12a, R. 457, 779-785; Pl. Ex. 13, R. 458, 785-790; Pl. Ex. 14, R. 458, 791-792; Pl. Ex. 15, R. 459, 792-795; Pl. Ex. 16, R. 459, 795-799).

In its inception the plan provided: for a Legal Aid Bureau at the Grand Lodge under the supervision of the president for the purpose of advising members "relative to their rights respecting claims for damages" and assisting them "in negotiating settlements"; for each local lodge to appoint a particular person to report all major injuries or deaths to the Bureau on forms provided by it³ (Pl. Ex. 6, R. 448, 764-765; Pl. Ex. 7, R. 451, 766-769; Pl. Ex. 8, R. 453, 770-773; Pl. Ex. 9, R. 453, 774-775); for the president to appoint Regional Investigators to whom such reports were referred and who made further investigation if necessary to enable the Bureau to determine questions of liability and to advise the injured member of his legal rights; for the selection and appointment by the Bureau of lawyers at strategic points in the United States with whom the Bureau made contracts for free advice to its members to enable them to make direct settlements of their claims if possible and to represent its members in suits when direct settlement failed for a contingent fee fixed by the Bureau, a part of which the selected attorneys

³ For more efficient reporting, this duty was subsequently imposed on the secretary of each local lodge by constitutional interpretation (Pl. Ex. 1, R. 439, 733-734; Pl. Ex. 1-B, R. 442, 735-739; Pl. Ex. 10, R. 453, 776-777).

paid over to the Bureau to cover its operating expenses; for each selected attorney to advance the necessary expenses and cost of litigation, subject to the approval of the Bureau; for the Bureau to give "the regional lawyers a reasonable assurance of a sufficient volume of Brotherhood business to warrant the rendering of proper service on the basis of compensation agreed upon";² for the report by each Regional Attorney of the outcome of each case, including the amount of settlement or verdict; and for suitable advertisement and publicity concerning the plan and the names of Regional Counsel available to render the services (Pl. Ex. 2, R. 442, 746-750; Pl. Ex. 3, R. 444, 753-755; Pl. Ex. 4, R. 445, 757-760; Pl. Ex. 5, R. 445, 760-763; Pl. Exs. 12 and 12a, R. 457, 782-785; Pl. Ex. 13, R. 458, 785-790; Pl. Ex. 14, R. 458, 791-792; Pl. Ex. 15, R. 459, 792-795; Pl. Ex. 72, R. 586, 905-913).

Under President Whitney's authority and at his direction, T. J. McGrath, then petitioner's General Counsel, established the Legal Aid Department and selected Regional Counsel (Pl. Ex. 17 (c), R. 465, 809-813). No study of the canons of legal ethics was made with respect either to the establishment of the plan or in the selection of Regional Counsel. Mr. McGrath replied in response to the suggestion that the lawyers selected were those who had been engaged in ambulance chasing.

"That is not a fact, generally speaking. We have men, wherever we have been able to secure them, who are experienced in the trial of damage suit cases.

² It was provided that "the charges in such cases will be from thirteen to thirty percent less than is now charged for similar service" (Pl. Ex. 4, R. 445, 759).

Now, you can differentiate between ambulance chasers. I don't think a great deal of odium attaches to ambulance chasing where the fellow handles his clients with decency and treats other lawyers on a fair plane when he solicits business. I consider it is unethical, but I mean from a purely moral standpoint. We sought to select men who may have used certain means to induce clients to come in there, but who would stand the scrutiny of any fairminded man as to whether their practices were reasonably decent." (Pl. Ex. 17 (c), R. 465, 814).

McGrath confirmed that the actual operation of the plan provided initial advice as to the value of the case and what settlement to demand and, on failure of settlement, reference to Regional Counsel for handling on a 20% contingent fee, one-fourth of which was paid to the Bureau, at first directly by counsel and later by assignment (Pl. Ex. 17 (c), R. 465, 815-823).

In April 1931, following the inauguration of the plan on May 1, 1930, a complaint was filed in the Common Pleas Court of Cuyahoga County, Ohio,⁴ against the second firm appointed as Regional Counsel by President Whitney, which brought petitioner's Legal Aid plan under court scrutiny for the first time and questioned the propriety of participation in it by any lawyer (Pl. Ex. 17 (a) and (b), R. 465, 800-805). Both President Whitney and Mr. McGrath testified in that proceeding, describing the plan and its operation as hereinabove indicated (Pl. Ex. 17 (c), R. 465, 809, 822). On May 4, 1932, another case was com-

⁴ *In re Petition of Committee on Rule 28 of the Cleveland Bar Assoc.* (1933), 15 Ohio L. Abs. 106.

menced in the same court,⁸ in which the Brotherhood was a defendant, again attacking the plan and its operation (Pl. Ex. 18, R. 481, 825-829). In the latter case, the petitioner then admitted solicitation, fee splitting and all the "objectionable practices" which it now admits in the case at bar continued until April 1, 1959. The significant point is that the *Dworken Case* was dismissed in reliance upon the petitioner's promise to stop those practices and on the good faith of its "protestation" that such practices had already been eliminated:

"Upon the representation by counsel for defendant, that said defendant has, in good faith, adopted said new plan of operation, this action is, by consent of both parties, dismissed at the costs of the defendant." (Pl. Ex. 18, R. 481, 827-828).

Petitioner repeats the same protestation in the case at bar (PB 18-19; R. 6, 7-8, 9-10, 51-52).

Even more significant is the testimony of McGrath in the first Ohio case that the objectionable practices were not being carried on "in Ohio right now" because of the two pending cases, but that petitioner was still employing those practices "in cases arising outside of Ohio and in the State of Ohio in minor cases, in Ohio" (Pl. Ex. 17 (c), R. 465, 816, 820, 825). With respect to the splitting of fees, McGrath said that "we agreed not to take any of that money, but hold it in abeyance until the thing was settled" (Pl. Ex. 17 (c), R. 465, 824).

⁸ *Dworken v. Brotherhood of Railroad Trainmen Grand Lodge* (1932), No. 354,975, Court of Common Pleas, Cuyahoga County, Ohio.

McGrath agreed that the result of the plan would be a monopoly of the F.E.L.A. business of its members in each Region for the selected Regional Counsel in that Region:

"Mr. Morris: But if the men finally get to the point of adopting your plan in your union it will mean that in this region Newcomb, Newcomb and Nord will have a monopoly on those cases?"

"The Witness: Yes, sir.

"Mr. Morris: That's right, isn't it?"

"The Witness: If they cooperate with us in our plan to carry out our suggestion, cases will not go to any other lawyers or [of] members of our Brotherhood, unless we should broaden our list." (Pl. Ex. 17 (c), R. 465, 824).

The definite intent of the petitioner to accomplish such a monopoly was frankly conceded by McGrath:

"Q. I asked you whether you have any other plan?"

"A. Well, eventually if we can't get it that way, we will arrange for an assessment on the members, I suppose, to do it as we are doing now, paying it out of the protective fund." (Pl. Ex. 17 (c), R. 465, 823).

Notwithstanding the "protestation" and agreement in the *Dworken Case* in 1932, petitioner now admits that it continued those objectionable practices until April 1, 1959 (R. 5-6, 7-8, 9-10, 51-52, 434, 436).

In 1932 the intermediate appellate court of Illinois decided that participation by an attorney in the petitioner's

plan did not defeat his attorney's lien.⁶ While it is true that the opinion in that case also approved petitioner's plan, that approval was subsequently nullified by the Supreme Court of Illinois in 1958 by the opinion on which the petitioner now chiefly relies.⁷ In 1933 the U. S. District Court for the Eastern District of New York, in disciplinary proceedings against a Regional Counsel,⁸ in which the Brotherhood participated as *amicus curiae*, censured the attorney, condemned the plan and had the following to say about the *Ryan Case*:

"For all that is shown by the opinion referred to, the superior court of Cook county, Ill., may not require adherence to the Canons of Ethics of the American and New York State Bar Associations, which after due consideration have been adopted as embodying the professional standards required to be maintained by the bar of this court." (5 F. Supp., at p. 467).

In 1946 the U. S. District Court for the Eastern District of Missouri was asked to remove Regional Counsel appearing for the plaintiff in a pending F.E.L.A. case⁹ on the ground of his participation in petitioner's Legal Aid Plan. In his defense Regional Counsel admitted that petitioner's Legal Aid Plan had operated from its inception

⁶ *Ryan v. Penna. R. Co.* (1932), 268 Ill. App. 364.

⁷ *In re Brotherhood of Railroad Trainmen* (1958), 13 Ill. 2d 391, 150 N.E.2d 163.

⁸ *In re O'Neill* (1933), 5 F. Supp. 465.

⁹ *Young v. GM&O Rwy. Co.* (1946), No. 3957, U.S.D.C., E.D. Mo.

until June 15, 1946, as originally set up with all of the objectionable features condemned in prior court decisions (and despite the assurances given in the *Dworken Case*) and stated that the plan had been brought to an end on June 15, 1946, because of widespread criticism by courts, lawyers and bar associations (Pl. Ex. 21, R. 485, 833-838, 842).¹⁰ In support of that defense Regional Counsel filed two letters from President Whitney dated June 15, 1946, one to the Regional Counsel involved in that case¹¹ and the other addressed to all Regional Counsel¹² denying fee splitting by the petitioner with its Regional Counsel and giving notice that the petitioner would not accept any part of Regional Counsel's fees in the future (Pl. Ex. 21, R. 485, 831, 833-834).

Notwithstanding President Whitney's "protestation" in 1946, petitioner's admissions in the case at bar establish that fee splitting did continue until April 1, 1959 (R. 5-6, 7-8, 9-10, 51-52, 434, 436).

Regional Counsel also explained in the *Young Case* (Pl. Ex. 21, R. 485, 835-837) that prior to June 15, 1946, Regional Counsel had agreed with petitioner to charge its members a contingent fee of 25% of the gross recovery, from which they paid all expenses and forwarded an amount equal to 4% of the gross recovery to the petitioner's Legal Aid Department which advertised Regional Counsel

¹⁰ Interstate Commerce in Damage Suits, Journal of the American Judicature Society, February 1946, p. 135.

¹¹ The same as Ex. 2 with Pl. Ex. 21, R. 485, 833.

¹² The same as Ex. 3 with Pl. Ex. 21, R. 485, 834.

and the Legal Aid Plan extensively in the Brotherhood publications (Pl. Ex. 72, R. 586, 905-923, 933-945).

The plan also came under attack in Tennessee in 1946.¹³

In 1948 Regional Counsel, Joseph B. McGlynn and others, were enjoined in North Carolina from advertising, soliciting and giving legal advice in that state and from transporting cases out of North Carolina (Pl. Ex. 24, R. 490, 842-843).

Bernard F. Savage, a Baltimore lawyer, was appointed by President Whitney on January 19, 1937, Regional Counsel for the region including Virginia, West Virginia, Maryland and the District of Columbia, and arrangements were made for him to be listed as such in the February issue of *The Railroad Trainman*. Savage agreed to operate under the Brotherhood plan and subscribed to the Rules and Regulations governing its operation on February 6, 1937. No lawyer other than Savage has been appointed as Regional Counsel for Virginia since that date (R. 61; Pl. Ex. 32, R. 530, 884; Pl. Ex. 33, R. 530, 884-887; Pl. Ex. 34, R. 530, 887-888; Pl. Ex. 35, R. 531, 888-891).

THE LEGAL AID DEPARTMENT UNDER PRESIDENT KENNEDY, 1949 - APRIL 1, 1959

William P. Kennedy succeeded President Whitney in July of 1949 (R. 38). Pursuant to his sole power as president to run the Legal Aid Department, he reappointed all

¹³ *Reynolds v. G.M.O. & T.P. Rwy.* (1946), No. 772, U.S.D.C., E.D. Tenn.

Regional Counsel that were serving under President Whitney, including Bernard M. Savage (R. 39-41; Pl. Ex. 36, R. 531, 892; Pl. Ex. 37, R. 532, 893; Pl. Ex. 82, R. 660, 1026).

When Kennedy took office, the contribution of each Regional Counsel to the maintenance of the Legal Aid Department was determined on the basis of "a pro rata assessment in accordance with the volume of business that he produced during that particular year" as compared to the total volume of business produced by all Regional Counsel, i.e., total gross recoveries in each year (R. 43-44). The books show that gross to have been \$8,688,409 in 1955. The 25% fee on that amount was \$2,172,102.25, out of which Regional Counsel contributed to the Legal Aid Department \$57,000 (Pl. Nelson Ex. A, R. 504, 1030). The complete detail of the financial connection between Regional Counsel and the Legal Aid Department of the Brotherhood for the years 1953 through 1958 is shown by its books (Pl. Nelson Ex. A, R. 504, 1027-1033; Pl. Chase Ex. E, R. 646, 1091-1199).

Kennedy had barely taken office when the Legal Aid Plan in its historical entirety, including the 1946 rearrangement,¹⁴ was severely criticized by the Supreme Court of California in Bank, which held that participation in the plan by Regional Counsel violated the Rules of Professional Conduct of the California State Bar.¹⁵ In 1952 the plan was again assailed in Tennessee¹⁶ where a Regional Investi-

¹⁴ See discussion of *Young Case* and Whitney letters, *supra*, pp. 12-14.

¹⁵ *Hildebrand v. State Bar of California* (1950), 36 Cal. 2d 504, 225 Pac. 2d 508.

¹⁶ *Doughty v. Grills*, (1952), 37 Tenn. App. 63, 260 S.W. 2d 370.

gator and a member of the Brotherhood were enjoined. In that same year, 1952, Regional Counsel Hildebrand was enjoined by the District Court of El Paso County, Texas,¹⁷ from engaging in the same practices for which the California court had condemned him two years before.

In 1956 the United States Court of Appeals for the Tenth Circuit¹⁸ found that Regional Counsel Davis, Rerat, Yaeger & Lush, of Minneapolis, Minnesota, and the Brotherhood's Regional Investigator, Pat Maroney, of Kansas City, Missouri, were guilty of seeking out persons known to have F.E.L.A. claims and soliciting them to employ Regional Counsel by carrying printed contingent fee contracts and as an inducement to signing such contracts stating that Regional Counsel would defray all expenses and make cash advances for the client's support and maintenance during the pendency of the claim. These practices in furtherance of the Brotherhood's plan, the Court said, "amounted to aggravated violation of well recognized ethical and professional standards of long duration and virtually universal observance".

On March 22, 1954, President Kennedy appointed as Chief Clerk of the Legal Aid Department Charles R. Maher, a former Regional Investigator assigned to Edward B. Henslee, Sr., General Counsel of the Brotherhood and its Regional Counsel in Chicago. Maher had temporarily served as manager of the Department in 1947 and 1948 (R. 697-698; Pl. Ex. 78, R. 588, 983). Maher testified

¹⁷ *Grievance Ctee. of the State Bar of Texas, 16th Dist. v. Hildebrand* (1952), No. 72581, Dist. Ct. of El Paso County, Texas, 41st Jud. Dist.

¹⁸ *The Atchison, Topeka and Santa Fe Rwy. Co. v. Jackson* (C.A. 10-1956), 235 F.2d 390.

that there were no changes in the operation of the Legal Aid Department from 1947 (Whitney then President) until April 1, 1959 (Kennedy then President) and described in detail how the objectionable aspects of the plan actually operated during that period (Pl. Ex. 78, R. 588, 983-997; R. 5-6, 7-8, 9-10, 51-52, 434, 436). Excerpts from *The Railroad Trainman* and other Brotherhood publications conclusively confirm Mr. Maher (Pl. Ex. 72, R. 586, 905-945; Pl. Ex. 73A, R. 586, 949-950).

Other proceedings challenging the plan were being commenced. On May 21, 1957, petitioner filed answers by President Kennedy to interrogatories propounded in such a case pending against the petitioner and others in Spokane County, State of Washington (Pl. Ex. 77, R. 588, 978-981).¹⁹ In those answers petitioner formally admitted: that it then operated a Legal Aid Department; that it then had 15 Regional Counsel; that the chairmen of its local lodges were then required to contact injured members or their survivors and to "urge such members, or such survivors of members to employ regional counsel to initiate litigation or negotiate for settlement", to arrange either to have Regional Counsel call on such claimants or to bring such claimants to Regional Counsel, to assure such claimants that Regional Counsel would not charge more than a contingent fee of 25% and would pay all expenses, and in proper cases to make assurance of cash advances for hospital and living expenses; that local lodge chairmen were compensated by Regional Counsel for such services; that Regional Counsel contribute ratably to the expenses of the Legal Aid Department and also to convention expenses of

¹⁹ *Opendack v. Davis, Rerat, Yaeger, Lush, Brotherhood of Railroad Trainmen*, No. 146745, Sup. Ct., Spokane County, Washington.

the Brotherhood when Legal Aid matters are discussed. Those formal answers to interrogatories specifically state that it is not only the *privilege* of the chairmen of local lodges to recommend but that it is *their duty* "under the Brotherhood's constitution, by-laws, etc." to *urge* consultation with Regional Counsel and that they do in fact *urge* injured members or their survivors to *retain* Regional Counsel. (Pl. Ex. 77, R. 588, 980, pars. 7 and 8).

That most candid and revealing admission was identified as Pl. Ex. 3 with President Kennedy's testimony in another California case in which Hildebrand was again a defendant and Kennedy and the Brotherhood were parties (Pl. Ex. 77, R. 588, 960-981, 977).²⁰

Kennedy conceded that the investigations initiated by him when he took office in 1949 had disclosed that something had to be done "in order to keep the good name of the Brotherhood of Railroad Trainmen highly in a respectable condition" (R. 46-47). About that time, in 1953, the Philadelphia Bar Association complained to the Chicago Bar that Edward B. Henslee, Jr. (son and partner of Edward B. Henslee, Sr., who was then not only Regional Counsel for the Chicago area but also General Counsel for the petitioner), was soliciting personal injury claims in Pennsylvania. A complaint was then filed in 1954 by the Grievance Committee of the Chicago Bar against Henslee, Sr., Henslee, Jr., Monek and Murray (R. 49). Petitioner then relied upon the decision in the *Ryan Case*,²¹ cited in petitioner's brief (PB 23-24), to justify the solicitation. It

²⁰ *So. Pac. Co. v. Hildebrand, et al*, No. 727273, Sup. Ct., Los Angeles County, Calif.

²¹ See footnote 6, p. 12.

was then in 1955 that Henslee, Sr., petitioner's General Counsel, petitioned the Supreme Court of Illinois on its behalf to approve by declaratory judgment the Brotherhood's Legal Aid Plan (R. 49). It is obvious that the purpose of this action was to forestall the Chicago Bar Association proceeding in anticipation that the Supreme Court of Illinois would take the same view of the plan as the Illinois intermediate appellate court had taken in 1932 in the *Ryan Case*.²²

The opinion in the proceeding instituted by Henslee, Sr.,²³ upon which petitioner has so heavily relied, reviewed petitioner's Legal Aid Plan and remarked that the prior decisions, excepting the *Ryan Case*, had disapproved the plan. The opinion directed special attention to the Illinois statute²⁴ against solicitation by laymen which had been enacted in 1957 while the matter was pending before the Illinois Supreme Court. It was pointed out in the opinion that the statute as originally proposed had contained a provision exempting labor organizations from its prohibition and that the exemption had been defeated in both houses of the Illinois General Assembly. This statute and its history was said by the court to express "a policy contrary to that stated in the *Ryan case*". The court declined disciplinary action against the Brotherhood for the following reason:

"So far as the disciplinary aspects of the matter are concerned, we are of the opinion that because of the

²² See footnote 6, p. 12.

²³ *In re Brotherhood of Railroad Trainmen* (1958), 13 Ill. 2d 391, 150 N.E. 2d 163.

²⁴ Ill. Rev. Stat. 1957, Chap. 13, par. 15.

decision of the Appellate Court in *Ryan v. Pennsylvania Railroad Co.* 268 Ill. App. 364, proceedings looking toward the imposition of discipline should not be pursued. (*In re Luster*, 12 Ill. 2d 25.) For the same reason we are of the opinion that time should be allowed the Brotherhood to reorganize its legal aid department along the lines outlined in this opinion. The standards here stated will therefore become effective on July 1, 1959." (13 Ill. 2d, at p. 398, 150 N.E. 2d, at p. 168.)

The Illinois decision was handed down on March 20, 1958, and, notwithstanding the court's condemnation of the plan, petitioner was allowed until July 1, 1959, to put its house in order: one year, three months and eleven days in which to instruct *only sixteen lawyers* to comply. Kennedy's letter directing compliance on April 1, 1959, was not sent until March 16, 1959, allowing less than 15 days as sufficient for that purpose (Pl. Ex. 75, R. 587, 958-959). President Kennedy claims great credit for his decision to direct compliance with the Illinois decision on April 1, 1959, three months earlier than required (R. 52) though plainly informed by that decision that the continued operation of his Legal Aid Department without change during the one year and 11 days that followed the decision was wrongful. This attitude is in exact accord with the statement in 1932 by General Counsel McGrath of the Brotherhood's avowed policy not to cease its illegal practices except when and where it is compelled to do so (Pl. Ex. 17 (c), R. 465, 820, 824-825; *supra*, p. 10).

The standards laid down by the Illinois decision and the proof of petitioner's failure to observe them, even in Illinois, will be later discussed (*infra*, pp. 34-36). As the

evidence will show, Kennedy's letter of March 16, 1959 (Pl. Ex. 75, R. 587, 958-959) and Whitney's letter of June 15, 1946 (Pl. Ex. 23, R. 486, 834)²⁵ professed the identical intention and were equally ineffective, petitioner having already admitted that there was no cessation of the objectionable practices as result of the Whitney letter (R. 5-6, 7-8, 9-10, 51-52, 434, 436; Pl. Ex. 78, R. 588, 983-984, 983-997). In fact, the Brotherhood proclaimed to its members on June 9, 1958, through its official publication that the Illinois decision "was a major victory" and stated that the court of seven judges had "unanimously placed its stamp of approval on the legal aid program of the Brotherhood of Railroad Trainmen" (Pl. Ex. 72, R. 586, 927).

During this period further attacks were being made on Regional Counsel and the Legal Aid Plan culminating after the Illinois decision in consent decrees generally following the Illinois decree with variations.²⁶

Regional Counsel Davis, Rerät, Yaeger and Lush were again involved in the Iowa Case²⁷ as well as Regional Investigator, Gail Clinkenbeard, the same firm whose activities were so severely criticized by the United States Court of Appeals for the Tenth Circuit²⁸ and who were parties

²⁵ The same as Ex. 3 with Pl. Ex. 21, R. 485, 834.

²⁶ *White et al v. Davis* (1959), No. 36175, Dist. Ct. of Pottawathamie County, Iowa; *State, ex rel Beck* (1960), 170 Neb. 376, 103 N.W. 2d 136; *State, ex rel Oklahoma Bar Assn. v. Brotherhood of Railroad Trainmen, Kennedy, Maher, et al* (1960); No. 38373, Supreme Court of Oklahoma; *Hulse v. Brotherhood of Railroad Trainmen* (Mo. 1960), 40 S.W. 2d 404.

²⁷ See footnote 26.

²⁸ *Supra*, p. 16, and footnote 18, p. 16.

defendant with the Brotherhood in the State of Washington.²⁰

The Oklahoma Case²¹ was announced ready for hearing when the Brotherhood, Kennedy, Maher and the other defendants stipulated their agreement to a consent decree which on April 26, 1960, adopted the Illinois decision in its entirety and in addition permanently enjoined the Brotherhood, its officers, agents, servants and employees "from representing, or attempting to represent any person in any legal matter or proceeding whatsoever in the State of Oklahoma" and permanently enjoined all of the defendants "from engaging in the practice of law in any manner whatsoever in the State of Oklahoma" (Pl. Ex. 29, R. 495, 855-858). Petitioner now appears to consider too broad and vague the very prohibitions to which it then consented (PB 14, 33, 40-41).

In the Missouri Case²² the petitioner again stipulated for a consent decree entered by the Supreme Court of Missouri, En Banc, on November 14, 1960 (Pl. Ex. 30, R. 496, 859-879). Regional Counsel Lush, of Davis, Rerat, Yaeger and Lush, was again involved. G. A. McNurlan, a Regional Investigator, later to be referred to, was also a defendant. The stipulation admitted that the petitioner was governed by the Grand Lodge and "conducts its business functions and operations through subordinate lodges, sometimes referred to as 'local lodges', located in the various states of the Union" (Pl. Ex. 30, R. 496, 860). The oper-

²⁰ *Supra*, pp. 17-18, and footnote 19, p. 17.

²¹ See footnote 26, p. 21.

²² See footnote 26, p. 21.

ation of the plan in accordance with its intent and purpose heretofore shown was again recited in detail (Pl. Ex. 30, R. 496, 860-873). An outstanding fact agreed to by all the defendants in that case, including this petitioner, is as follows:

"The respondent Lush paid to the Brotherhood, as *his share of the expense of operation of the Legal Aid Department*, a total of \$31,825.68 during the period from January 1, 1956, to March 25, 1960." (Italics ours. Pl. Ex. 30, R. 496, 873).

The Court will not fail to observe the significance of the date, March 25, 1960, as the last contribution made by Regional Counsel Lush to the Legal Aid Department in the light of the now obviously false "protestation" by pleadings, affidavit of May 11, 1960, and testimony in the case at bar that "No amount has been contributed or will be contributed after April 1, 1959" (R. 9, 5-6, 7, 51-52). Petitioner obviously did not dare to so contend in the Missouri consent decree of November 14, 1960, in which its protestation is merely: "The respondents, and each of them, have represented that they *presently* are not engaging in any of the practices condemned in the above quoted [Illinois] decision." (Italics ours. Pl. Ex. 30, R. 496, 874).

It is important to note that petitioner *consented* in the Missouri decree to the following among other permanent injunctions: from telling any person that he has a cause of action, the amount he was entitled to recover, where suit should be brought; from doing any other thing that constitutes the practice of law in Missouri; and from making unsolicited calls for the purpose of "recommending or urging the employment of a lawyer" (Pl. Ex. 30, R. 496, 875).

The Nebraska proceeding²² resulted also in a consent decree on May 6, 1960 (Pl. Ex. 28, R. 493, 844-851) which was specifically approved by the Supreme Court of Nebraska in an opinion that day rendered (Pl. Ex. 28A, R. 493, 851-854). The petitioner again consented to the permanent injunction against telling any person that he has a cause of action, the amount he should recover, where suit should be filed or doing any other thing that constitutes the practice of law in Nebraska, including conspiring with any resident or nonresident lawyer to violate the laws of Nebraska or the *Canons of Legal Ethics* (Pl. Ex. 28, R. 493, 848-849; Pl. Ex. 28A, R. 493, 852). Nebraska was the fourth state to bring action against Regional Counsel Lush²³ and the second to enjoin Regional Investigator Clinkenbeard.²⁴

Robert A. Nelson, Special Assistant Attorney General in the Nebraska Case, testified in the case at bar (R. 498-529). He introduced as exhibits documents brought to light in the Nebraska proceeding that revealed the interrelation of petitioner's Grand Lodge, its Regional Counsel, Regional Investigators and its members, laying bare the actual purpose and result of the Legal Aid Plan and the way in which it operated, including the secret financial records of the Legal Aid Department known only to President Kennedy and Chief Clerk Maher (R. 698-699) and wholly unknown to petitioner's General Secretary and Treasurer, W. E. B. Chase, who had knowledge only as to the "so much money, fifty or one hundred thousand

²² See footnote 26, p. 21.

²³ See footnotes 19 and 26, pp. 17 and 21.

²⁴ See footnote 26, p. 21.

dollars, or whatever it is, at the end of the year, that goes into our books as from the Legal Department" (R. 597, 602, 630-631, 698-699).

Marko Verbon, a Regional Investigator, testified in the Nebraska case (Pl. Nelson Ex. K, R. 521, 1048-1071). Verbon was himself injured in 1948 while an active trainman. His case was solicited and handled by a Regional Counsel. After its settlement, he was employed by that firm to bring in legal business at the flat rate of \$200 per case, shortly increased to \$300 because of his efficiency. During that period, prior to 1951, he was the front-man who prepared the build-up for the Regional Investigator to move in and sign up the case. He was later appointed Regional Investigator and assigned to Davis, Rerat, Yaeger and Lush and in 1956 was put on the Brotherhood's payroll (Pl. Nelson Ex. K, R. 521, 1049-1054; Pl. Chase Ex. J, R. 652, 1308-1309; Ex. 32 with Pl. Nelson Ex. M, R. 522, 1085). Notwithstanding his appointment as Regional Investigator for the Brotherhood, carrying a regular investigator's card signed by President Kennedy, he never made an investigation. His sole job was "to sign them up". The four other Regional Investigators assigned to that firm had the same special function. His instructions as Regional Investigator were "to use the lodge officers to help me to get business, sign contracts". The notice of injury or death in Brotherhood cases came from Chief Clerk Maher of the Legal Aid Department at the Grand Lodge to both Regional Counsel and Regional Investigator (Pl. Nelson Ex. K, R. 521, 1055-1057, 1068-1069, 1071-1072).

The lodge officers and members that were used by the Regional Investigators "to get business" were called "bird-dogs". Their compensation for that service to the Regional

Investigator varied from a high of \$1500 per case to as little as \$50 per case. For example, in the claim of Donald Bauer, handled by Davis, Rerat, Yaeger and Lush in 1953, the Regional Investigator, Gail Clinkenbeard, was paid a clear commission over and above expenses of \$2662.50 and the "bird-dog", D. G. Klein, an officer of the local lodge, received \$1000 for taking his friend, Bauer, to see Regional Counsel (R. 523; Pl. Nelson Ex. I, R. 519, 1038-1040, 1046); in the case of Leo E. Fry, handled by the same firm in 1955, Regional Investigator Gail Clinkenbeard's commission was \$3076.67 and the three "bird-dogs" in that case received, one \$1500 and the other two \$100 each (R. 522-523; Pl. Nelson Ex. J, R. 520, 1047). Other similar exhibits were introduced and explained by Verbon (Pl. Nelson Ex. K, R. 521, 1061-1070; Exs. 33 through 37 with Pl. Nelson Ex. M, R. 522, 1086-1090).

The Davis, Rerat, Yaeger and Lush partnership "broke up" in 1955. Out of that dissolution three individual firms resulted, each of which was named Regional Counsel for a part of the territory previously assigned by President Kennedy to the old firm (Pl. Nelson Ex. K, R. 521, 1054; Pl. Ex. 82, R. 660, 1023-1024, 1026).

It is also significant that the territory of each Regional Investigator was protected by the Brotherhood, just like the distributor of any other commercial commodity, to the extent that the commissions on all sales made, or cases signed up, in the territory assigned to a given Regional Investigator went to him whether made by him or by some other Regional Investigator. Pat Maroney, Gail Clinkenbeard and Glenn McNurlan were all Regional Investigators appointed by President Kennedy and assigned by him to Regional Counsel Davis, Rerat, Yaeger and Lush and

the splinter Regional Counsel resulting therefrom (Pl. Nelson Ex. K, R. 521, 1055). Maroney's activity had been called an aggravated violation of professional and ethical standards by the United States Court of Appeals for the Tenth Circuit.²⁵ Clinkenbeard was enjoined by both Iowa and Nebraska,²⁶ and McNurlan in Missouri.²⁷ All three were on the Brotherhood's payroll and both Clinkenbeard and McNurlan remained on it until April 30, 1960 (Pl. Chase Ex. J, R. 652, 1268-1271, 1278-1281, 1282).

The proof in the Nebraska Case establishes that, by reason of the volume guaranteed by the Brotherhood's contract with its Regional Counsel, petitioner's members were represented on a 25% contingent fee as compared to a 33⅓% fee to non-craft persons, and the commissions to Regional Investigators was 10% on members' cases, where the "bird-dog" was available, against 15% in non-craft cases where the help of the "bird-dog" was not available (Pl. Nelson Ex. K, R. 521, 1057, 1060; Exs. 8 and 25 with Pl. Nelson Ex. M, R. 522, 1083, 1084).

The term "bird-dog" is explained by Nelson, Verbon and Marjorie Matson, Secretary in the office of Davis, Rerat, Yaeger and Lush (whose testimony corroborated Verbon in every respect. Pl. Nelson Ex. L, R. 521, 1072-1082). They were what the name implies, the means of locating the game and setting it up for the kill (R. 520; Pl. Nelson Ex. K, R. 521, 1052, 1070-1071; Pl. Nelson Ex. L, R. 521, 1074). The letters "BD" were used to indi-

²⁵ *Supra*, p. 16, and footnote 18, p. 16.

²⁶ *Supra*, pp. 21 and 24, and footnote 26, p. 21.

²⁷ *Supra*, pp. 22-23, and footnote 26, p. 21.

cate payments to the "bird-dog" on the records of that Regional Counsel (Pl. Nelson Ex. L, R. 521, 1080-1081).

Another interesting element of proof in the Nebraska Case is the undenied fact there shown that George Rerat, Chief Regional Investigator for the law firm of his brother, Eugene Rerat (Davis, Rerat, Yaeger and Lush), was for some time known to Verbos only as George Sullivan and that the lawyer brother only later permitted the investigator brother to reveal his true identity (Pl. Nelson Ex. K, R. 521, 1050, 1052). Verbos's pay checks, when his commissions exceeded his regular Brotherhood salary, were from the Interstate Investigation Bureau, an office occupied by "nobody" and to which George Rerat had a key. Those checks were signed by Regional Counsel Rerat's secretary under the printed signature of his sister, G. Welch (Pl. Nelson Ex. K, R. 521, 1067-1068). George Rerat was the Regional Investigator who kept the solicitors for his firm on their toes:

"Well, boys, we've got to get more business. We have to dig down in our jeans to keep this office going" (Pl. Ex. K, R. 521, 1056).

George Rerat was paid by the Legal Aid Department through April 30, 1960 (Pl. Chase Ex. J, R. 652, 1290-1293).

Both President Kennedy and Chief Clerk Maher of the Legal Aid Department testified in the second California case involving Regional Counsel Hildebrand.²⁴ Their testi-

²⁴ *So. Pac. Co. v. Clifton Hildebrand et al* (1960), No. 727273, Superior Ct. Los Angeles County, Calif.; Pl. Ex. 77, R. 588, 960-981; Pl. Ex. 78, R. 588, 981-1002. See also footnote 20, p. 18.

mony was in conflict on an important fact. Kennedy testified that Regional Counsel Hildebrand made no money contribution to the Legal Aid Department after action was taken against him in the California courts (Pl. Ex. 77, R. 588, 974). Maher contradicted this, saying that the regional investigators associated with Hildebrand's office did the paying for him. In each of those years Hildebrand's assessed pro rata share of the department's expense was paid by a cashier's check and credited to Hildebrand's account. Maher frankly conceded: "I don't give a damn where the money came from as long as it came in" (Pl. Ex. 78, R. 588, 990-991). It appears that Kennedy relieved Hildebrand from his position as Regional Counsel *only* in those states which had obtained injunctions against him and Mr. Kennedy spoke more truth than he perceived with reference to the consent decree of injunction in Texas:³⁹ "I know we consented to the decree—but the provisions of the decree have long since been forgotten" (Pl. Ex. 77, R. 588, 968).

⁴⁰ Proceedings were also instituted in Michigan against petitioner in January of 1959,⁴⁰ in which it made a most revealing admission that the Brotherhood, itself, continued to reimburse its representatives at their hourly rate of pay, plus expenses for the time involved, "in bringing injured employees or the survivors of the deceased employees to the offices of the Regional Counsel," "up to and including the 31st day of March, A.D. 1959," the very last hour before its professed day of reformation, April 1, 1959 (Pl.

³⁹ See footnote 17, p. 16.

⁴⁰ *State Bar of Michigan v. Brotherhood of Railroad Trainmen, et al* (1959), Cir. Ct. of Jackson County, Mich., No. T-640.

Ex. 31, R. 497, 880, par. 6, 883, par. 5). One cannot resist comment upon the appropriateness of the day picked.

Proceedings against petitioner have since been commenced in Montana and New Mexico.⁴¹

THE OPERATION OF THE PLAN IN VIRGINIA

Virginia lies in the territory (West Virginia, Maryland, District of Columbia and Virginia, R. 61) allotted by the Legal Aid Department to Bernard M. Savage, a Baltimore lawyer who was appointed Regional Counsel by President Whitney in 1937 and who has served in that capacity from then until now. The appointment letter prescribes the terms of Savage's employment to which he subscribed by initialing a copy of the Rules and Regulations governing Regional Counsel and the Brotherhood in effect in 1937 (Pl. Ex. 32, R. 530, 884; Pl. Ex. 33, R. 530, 884-887; Pl. Ex. 34, R. 530, 887-888; Pl. Ex. 35, R. 531, 888-891). The appointment letter reminded Savage of the fee arrangement specifically prescribed in the then existing Rules and Regulations (not set out in the original Rules and Regulations of 1930, Pl. Ex. 5, R. 445, 760-763), of his obligation to see that the Legal Aid Department got its 6% share of all gross recoveries, furnished him sample contracts for employment and forms of letters to obtain assignment of the Brotherhood's 6%, and made it "clearly understood" that all cases involving members were to "be

⁴¹ *Ryan et al. v. Brotherhood of Railroad Trainmen, et al*, 32966, D.C. 13th Jud. Dist., Yellowstone County, Montana; *State Board of Bar Exam. v. Rutledge et al*, No. 78625, D. C. of Bernadillo County, New Mexico.

considered as Brotherhood cases", entitled to the discount rate, whether they are "brought directly to the Regional Counsel by the claimants themselves or by officers or members of the Brotherhood, as well as those which are referred to counsel by the Department." This latter caution was deemed necessary "because we are advising our members that they may go directly to counsel if they choose, rather than to take the matter up with this Department" (Pl. Ex. 33, R. 530, 886). Savage got a less favorable break on his fee splitting with the Brotherhood than some others, Savage's type of contract being deemed "just a little more advantageous from our standpoint" (Pl. Ex. 17 (c), R. 465, 820). Savage was continued in office by Kennedy on October 12, 1949 (Pl. Ex. 36, R. 531, 892; Pl. Ex. 37, R. 531, 893).

The pattern of the Brotherhood's activity in Virginia through its Regional Counsel Savage is clearly shown by correspondence between him and the Legal Aid Department relative to the operation of the plan in Virginia prior to April 1, 1959 (Pl. Ex. 42, R. 534, 894-895; Pl. Ex. 42A, R. 534, 895; Pl. Ex. 44, R. 534, 896; Pl. Ex. 50, R. 535, 897; Pl. Ex. 50A, R. 535, 898; Pl. Ex. 50B, R. 535, 899; Pl. Ex. 62, R. 537, 899-900; Pl. Ex. 62A, R. 537, 900). This correspondence discloses the persistent methods employed by the Brotherhood to insure that Regional Counsel Savage got the Virginia business. For example: the local lodge Secretary at Victoria, Virginia, was admonished on March 14, 1955, by Maher, the Chief Clerk, "to contact Brother Carson" recently injured and Savage was employed the next day (Pl. Exs. 42, 42A, R. 534, 894-895); a similar instruction, given to the Secretary of an Alexandria lodge about Brother Fauntleroy on August 10, 1954, proved less effective, the reason for which Savage ex-

plained on August 17, 1954, with the assurance that the Brotherhood's General Chairman on the RF&P Railroad felt "sure that the Department would handle the case" which it did as shown by Savage's letter to Maher of November 26, 1954, that "Brother Fauntleroy *has employed the Department*" (Pl. Exs. 50, 50A, 50B, R. 535, 897, 898, 899. *Italics ours*); and Maher complained to Savage on June 19, 1958, of a 'two months' delay in signing up Brother Smith and Savage was finally able to advise on August 15, 1958, "that Brother Smith has employed the Department to handle his claim," enclosing a copy of the contract (Pl. Exs. 62, 62A, R. 537, 899-900).

Petitioner furnished on demand a list of cases handled in Virginia under the plan by Regional Counsel Savage from May 14, 1956 to April 1, 1959 (Pl. Ex. 67, R. 584, 901). Petitioner also furnished on May 11, 1960, pursuant to similar demand, the amount paid by Regional Counsel Savage in the years 1955 through 1958 toward the maintenance of the Legal Aid Department based on the total amount of business done for the year in all states (R. 9-10). It should be noted that petitioner's answer to that demand asserts that there were no payments for 1959, that the figures for 1954 were "not available", and that "no amount has been contributed or will be contributed after April 1, 1959" (R. 9). Yet, plaintiff's Nelson Ex. A (R. 504, 1028) shows that Savage did contribute \$2722.50 in 1954 and plaintiff's Chase Ex. H (R. 647, 1245-1248) shows that Savage paid to the Brotherhood through the Legal Aid Department on August 19, 1959, the sum of \$6800.

Regional Investigators Norris W. Tingle and R. T. Miller were assigned by President Kennedy to Regional

Counsel Bernard M. Savage. They carried Regional Investigator cards signed by Kennedy and were paid by the Brotherhood, Tingle through April 30, 1960, and Miller through September 15, 1959, when he retired (R. 69-72; Pl. Chase Ex. J, R. 652, 1283-1285, 1304-1307; Pl. Chase Ex. H, R. 647, 1248).

President Kennedy testified that Savage handled the Brotherhood's Virginia cases pursuant to the plan prior to April 1, 1959, and that there was no Legal Counsel now serving Virginia "because of this lawsuit" (R. 61, 87-88). He said that: "We tried to do in Virginia what we did in West Virginia. We authorized Mr. Savage to make his disposition of his particular case in West Virginia" (R. 88). Pursuant to that authority Savage tacitly agreed with the Unlawful Practice Committee of the West Virginia State Bar that he had engaged in the unlawful practices charged and expressly agreed that neither he nor petitioner's Regional Investigator Tingle would engage in them in the future. That agreement of June 10, 1958, also contained the assurance that Regional Counsel Savage would not *participate or conspire* with any person in any unlawful practice (Pl. Ex. K-6, R. 114, 140-143).

The cessation of activity in Virginia "because of this lawsuit" falls in exactly the same pattern as petitioner's alleged cessation in Ohio in 1932 and admitted continuance in other areas outside Ohio pending the *Dworken Case*.⁴²

⁴² *Supra*, p. 10, and footnote 5, p. 10.

THE PLAN AFTER APRIL 1, 1959

Petitioner claims (PB 17-18) that the Illinois decree⁴² permits it to investigate injuries to its members, to make those investigations available to its members, to advise its members to employ counsel and to give the names of competent lawyers (PB 17). Petitioner agrees that the decree prohibits carrying contracts or photocopies of settlement checks, any financial connection between petitioner and Regional Counsel, contributions by Regional Counsel to the department or to any officer or member for procuring cases, and control by the Brotherhood of fees charged to its members (PB 17-18).

The petitioner agrees in the case at bar that the admitted objectionable practices of the Legal Aid Plan are enjoined by the Illinois decree. Once more the Brotherhood protests reformation since the Illinois decree, that "we haven't been in violation of any Court's ruling", and that it is "living up to the practices [of the Illinois decision] now in 50 states" (PB 18-19; R. 57, 6-10, 435; Pl. Ex. 77, R. 588, 963; Pl. Ex. 78, R. 588, 1001-1002). The proof shows the contrary.

Right in the State of Illinois, which had given petitioner more than a year to put its house in order, petitioner violated all of the prohibitions with respect to a member who was not injured until August 13, 1959, a month and a half after the deadline fixed by the Illinois Court (R. 191-219, 193). Petitioner's local lodge chairman, Harmon, made an unsolicited call on the injured member, Paul Hodges, in

⁴² *In re Brotherhood of Railroad Trainmen* (1958), 13 Ill. 2d 391, 150 N.E. 2d 163.

the ward of the Marion hospital, 25 miles away, the day after he had lost a leg, advised him to sign a contract with the Legal Aid Department, assured him that the department could get him a recovery as high as \$173,000, guaranteed that the department's lawyers in Chicago would not take more than 25%, and said that if he did not "go through legal aid I [he] would wind up getting nothing out of it" (R. 193-196). On the third day after the accident the treasurer of the local lodge, Morris, also made the 25 mile trip for a friendly chat (R. 196). On the fifth day Hodges was transferred to a hospital at his home in Anderson and Harmon again visited him there, going through the same routine (R. 196).

In October Hodges had been discharged from the hospital and Harmon visited him daily at his home, urging him to sign up, until Mrs. Hodges ran him away. During that period Harmon called Regional Counsel Henslee in Chicago on Hodges' telephone in Hodges' presence telling Henslee that he would need an advance of expenses in order to bring Hodges to Chicago, which Harmon said Henslee was supposed to provide. The next morning Hodges refused to go, the persistence of petitioner's local lodge chairman having made Hodges a "nervous wreck" (R. 197-200, 203).

During that period Morris paid several visits and asked if he could bring R. M. Crago, the General Chairman of the Brotherhood on the New York Central Railroad located in Indianapolis, Indiana (R. 200). Crago and Morris later visited Hodges together. Crago reiterated everything that Harmon had said and presented a written contract

for Hodges to sign "to get the legal aid to take my [his] case." Hodges refused (R. 201-203).

A retired Brotherhood member, Fred Weber, also worked on Hodges to sign up with "legal aid in Chicago" (R. 202-203).

President Kennedy admitted knowing all the persons involved in the solicitation of Hodges' case, except the particular Weber named (R. 80-81).

Crago was on the petitioner's payroll through October 15, 1959 (Pl. Chase Ex. J, R. 652, 1272-1274) and Regional Counsel Henslee made substantial payments to the Legal Aid Department through April of 1960 and paid the Department specifically for Crago's services as a Regional Investigator into October, 1959 (Pl. Chase Ex. F, R. 647, 1200-1204, 1209-1212; Pl. Chase Ex. H, R. 647, 1233-1234, 1240, 1241-1242; Pl. Chase Ex. J, R. 652, 1272-1274).

It is disturbing in the light of petitioner's insistent reliance upon the Illinois decree, to find in paragraph 3 of its motion to strike the deposition of Paul Hodges the startling statement: "and the defendant does not know what practices constitute the unauthorized practice of law in Illinois State" (R. 21-22).

In Ohio, where the plan had twice been condemned,⁴⁴ petitioner solicited its member, Dewey McLaughlin, who was not injured until February 19, 1960, to employ its Regional Counsel Henslee (R. 145-147, 155, 161). In that situation Emmett Adley was the "bird-dog" who brought in Don Taylor, a Regional Investigator assigned to Re-

⁴⁴ See footnotes 4 and 5, pp. 9 and 10.

gional Counsel Henslee, who was on the Brotherhood's payroll through April 30, 1960 (Pl. Chase Ex. J, R. 652, 1300-1303). President Kennedy thought he knew Adley and definitely identified Taylor (R. 82). Henslee also paid the Department specifically for Taylor's services as a Regional Investigator through April 30, 1960 (Pl. Chase Ex. F, R. 647, 1209-1212). Henslee's substantial contributions to the Department through April 1960 have already been noted above (Pl. Chase Ex. F, R. 647, 1200-1204; Pl. Chase Ex. H, R. 647, 1233-1234, 1240, 1241-1242).

Again the petitioner pleaded ignorance of "what practices constitute the unauthorized practice of law in Ohio State" notwithstanding two previous condemnations of the plan by that state (R. 19, par. 2; *supra*, pp. 9-11).

On June 13, 1959, Lawrence Troxtell was injured at Indianapolis. The employment of Regional Counsel for this man was solicited by local lodge chairman George Rummel, the "bird-dog", and by Regional Investigator Robert M. Crago who took him to Chicago where he was signed up by the Henslee firm.⁴⁵ Rummel paid all of Troxtell's expenses. Crago explained the advantages of signing up with the Department, cash advances, medical treatment, and the 25% contingent fee (R. 346-354). Rummel was later killed and the local lodge president, George Agal, took over the follow-up duties (R. 354; Pl. Ex. 73B, R. 586, 952). Regional Counsel Henslee's firm did advance cash for living expenses (R. 355, 357). Troxtell's wife confirmed her husband's testimony (R. 337-345).

⁴⁵ Crago is the same Regional Investigator who solicited Paul Hodges for the same Regional Counsel, Henslee, *supra*, pp. 35-36.

Clifford Olson, a member of the Brotherhood, lost a leg in a railroad accident on July 17, 1959 (R. 163, 179-180). Within three or four days thereafter Jerry Ballieu, a fellow lodge member (the "bird-dog"), and Regional Investigator Gail Clinkenbeard,⁴⁶ known to President Kennedy (R. 81), came to the hospital to advise him of his right to use the Legal Aid Department and of the competency of Regional Counsel, Davis and Lush.⁴⁷ After other visits at the hospital, Olson signed a contract at his home, having been informed that the Lush firm could "get more money" (R. 163-166). Regional Investigator G. A. McNurlan also participated.⁴⁸ This contract was delivered to Clinkenbeard who carried it to the Lush firm (R. 166). Olson's wife confirmed the facts and further stated that she typed the contract to employ the Lush firm at Mr. Clinkenbeard's dictation in her home (R. 167, 179-183). Mrs. Olson insisted on inserting in the contract the right reserved to her husband to negotiate directly with the railroad, which he later exercised (R. 181, 173).

Both Clinkenbeard and McNurlan were on petitioner's payroll as Regional Investigators through April 30, 1960 (Pl. Chase Ex. J, R. 652, 1268-1271, 1278-1281). Regional Counsel Lush paid the Department \$10,450 on March 31, 1960 (Pl. Chase Ex. I, R. 648, 1264; Pl. Chase Ex. F, R. 647, 1204). Lush paid petitioner for the services of

⁴⁶ The same Gail Clinkenbeard was enjoined in Iowa and Nebraska. *Supra*, pp. 21 and 24, and footnote 26, p. 21.

⁴⁷ The same law firm or splinter therefrom enjoined in four states and severely criticized by the Tenth Cir. Ct. of Appeals. *Supra*, pp. 16, 21-28 and footnotes 18, 19 and 26, pp. 16, 17 and 21.

⁴⁸ The same McNurlan who was enjoined in Missouri. *Supra*, pp. 22-23 and footnote 26, p. 21.

Clinkenbeard and McNurlan through April 30, 1960 (Pl. Chase Ex. F, R. 647, 1217-1218).

Elmo Loman was injured in San Francisco on June 29, 1960 (R. 297). Loman later went to the Brotherhood office to inquire about dues and insurance, where he talked to Stanley Rider, local lodge chairman and also legislative representative (R. 298-299; Pl. Ex. 74A, R. 587, 955). Rider "said he would like to send someone out" and on July 5 or 6, 1960, Harry Dragmire⁴⁹ arrived. Dragmire was the Regional Investigator assigned to Regional Counsel Hildebrand, well-known by Kennedy, and was paid by the Brotherhood through April 30, 1960 (R. 83, 299-300, 284; Pl. Chase Ex. J, R. 652, 1275-1277; Pl. Chase Ex. F, R. 647 1213-1214). Dragmire urged Loman and his wife to sign up with Hildebrand, promising a 25% attorney's fee, cash advance of \$350 a month until settlement and medical specialists, and brought out a written agreement for signature (R. 300-304, 284-286). Dragmire also told of large verdicts and settlements that Hildebrand had obtained for other Brotherhood members and suggested that Loman's case was worth around \$45,000 (R. 301, 286). Dragmire called several times thereafter (R. 305).

Again petitioner protested that it did not know what constituted the unauthorized practice in California (R. 15), notwithstanding the 1950 *Hildebrand Case*⁵⁰ as well as the then pending case in California.⁵¹

⁴⁹ Dragmire was one of the two Regional Investigators assigned to Hildebrand (R. 705) who forwarded Hildebrand's contribution to the Legal Aid Department while Hildebrand was under investigation. *Supra*, p. 29.

⁵⁰ See footnote 15, p. 15.

⁵¹ *Supra*, pp. 28-29, and footnote 38, p. 28.

Regional Counsel Hildebrand continued to pay substantial sums to the Brotherhood through its Legal Aid Department until April 1, 1960 (Pl. Chase Ex. F, R. 647, 1200-1204). Shortly prior to Loman's deposition Dragmire and Rider sought him out and attempted to persuade him to change his story; otherwise, Rider would get in trouble (R. 305-308). Rider was the "very good friend" and "bird-dog" in the case (R. 311).

Kenneth Gibson of Iowa (R. 280-282), James Garwood of New York State (R. 417-418), and Charles Clark of Philadelphia (R. 259-260), all gave written statements that the retainer contracts entered into by them with the respective Regional Counsel assigned to their respective territories had been solicited by officers of the Brotherhood. Their testimony varied from the written statements in that respect. Once more petitioner pleaded ignorance of what constituted the unauthorized practice of law in Iowa (R. 16), apparently overlooking its consent to the injunction entered in the *White Case*.²²

Jimmie Doyle Queen, of Cedar Town, Georgia, a trainman on the Central of Georgia Railroad and member of the Brotherhood, was killed on June 24, 1959. Two days later his widow gave birth to their child (R. 538-539, 540-541, 553-554, 571-572, 577). On her return from the hospital about July 1 or 2, 1959, Regional Counsel Tom Lewis, Jr., of Atlanta, Georgia, appeared at her home and solicited her case, asking her to sign an employment contract (R. 554-555, 539-541, 571-572, 577-578; Pl. Ex. 82, R. 660, 1025).

²² See footnote 26, p. 21.

On July 4, 1959, B. G. Byington, General Chairman of the Brotherhood for the Central of Georgia Railroad, arrived and solicited her case for A. L. Rives, Regional Counsel at Birmingham, Alabama (R. 542-544, 556, 571-572; Pl. Ex. 73A, R. 586, 949-950; Pl. Ex. 73B, R. 586, 953). Byington came back several more times (R. 545, 557, 571-572, 578). Byington made known his connection with the Brotherhood, exhibited copies of clippings, cancelled checks and photocopies of settlements to prove his assurance that Regional Counsel Rives could "get much more money than anybody around here could get" and offered to take the widow, her mother and her baby to Birmingham in his Cadillac car at his expense (R. 556-557, 543-546). He stayed two hours on the first visit and 30 minutes on each of the others (R. 544-545). Parker Whitfield, who also worked for the Railroad, was the "bird-dog" and introduced Byington (R. 546, 562). Byington wrote the widow on June 29, 1959, expressing the Brotherhood's sympathy to the widow of Brother Queen and informing her that he would arrive in Cedar Town shortly and would discuss her affairs, including "an annuity paid monthly for you, and as I understand, a child soon to be born" (R. 560-561). Even this entree, the help of the "bird-dog" and Byington's insistence did not produce a contract for Regional Counsel Rives. At Byington's request, the widow advised him when she changed her address (R. 558).

Not only did solicitation continue according to the original plan after April 1, 1959, but the Queen case demonstrates the evils inherent in the Legal Aid Plan when avarice for the big cases results in internal strife, violation of assigned territories and competition among Regional Counsel themselves.

The books of the Legal Aid Department, now called Department of Legal Counsel (R. 5), show that payments to the Brotherhood by all Regional Counsel, now called Legal Counsel (R. 5), continued through April 30, 1960, at which point bookkeeping by the Department apparently ceased (Pl. Chase Ex. F, R. 647, 1200-1232; Pl. Chase Ex. H, R. 647, 1233-1261; Pl. Chase Ex. I, R. 648, 1262-1264). In the year 1959, the year in which petitioner claims that all financial connection between Legal Counsel and the Brotherhood and its Legal Aid Department *were eliminated* as of April 1, 1959 (R. 7, 9, 51-52, 434, 436) and that no payments had "been received by the Brotherhood and credited to the account of these legal counsel since April 1, 1959" (Pl. Ex. 78, R. 588, 1001), the financial statements of the Brotherhood for that year, 1959, relative to the department show receipts from Regional Counsel in the amount of \$158,080.06, only \$41,351.33 of which was paid in before April 1, 1959, as compared to \$156,902.27 for the year 1958, an increase of \$1,177.79 (Pl. Chase Ex. L, R. 666, 1323; Pl. Chase Ex. F, R. 647, 1200). The same records show receipts from Counsel of \$23,410.31 through the month of April, 1960, when those records ceased (Pl. Chase Ex. L, R. 666, 1324; Pl. Chase Ex. F, R. 647, 1203-1204). These figures were duly audited showing only slight discrepancies (Schedule 24, Pl. Chase Ex. K, R. 657, 1318, 1319, 1320).

Petitioner continued to advertise its Regional Counsel through its official publications and at open meetings where wholesale solicitation became obvious (Pl. Ex. 72, R. 586, 929-931). The Legal Aid Department, newly named the Department of Legal Counsel, continued after April 1, 1959, to be operated by the same Chief Clerk, C. R. Maher, "under the direct supervision of President Kennedy" (Pl. Ex. 78, R. 588, 997).

President Kennedy continued to control the fees charged by Regional Counsel, now named Legal Counsel. While he no longer fixed them by contract he retained the power to remove counsel at will and admitted that he would exercise that power against any Regional Counsel who charged a member a fee greater than he considered proper (R. 108). It is significant that in the cases shown by the depositions arising after April 1, 1959, wherever the fee arrangement is mentioned, it is invariably the same wholesale rate of 25% (R. P94, 217, 274, 280, 285, 290, 304, 323, 334, 353, 363, 377, 379, 389, 390, 399, 418).

CONCLUSION ON THE FACTS

The protestations of reformation by the petitioner in the case at bar, as in the past, are plainly not in good faith. The Chancery Court did not need the gift of prevision to experience justifiable apprehension concerning the Brotherhood's future conduct.

ARGUMENT

PART I. THERE IS NO JURISDICTION TO REVIEW THIS CASE

The questions presented by petitioner (PB 2, 21, 47) and the subsidiary questions fairly comprised therein set forth no controversy. The decree of the Chancery Court (R. 25-28) affirmed by the Supreme Court of Appeals of Virginia (R. 35, 36) does not enjoin or restrain the petitioner from exercising the right asserted. The only right

claimed by the petitioner, regardless of derivation, is stated in these words:⁵³

"the right to make known to its members generally, and to injured members and survivors of deceased members in particular, first, the advisability of obtaining legal advice before making settlement of their claims, and second, the names of competent attorneys to handle such claims" (PB 2).

Substantially the same words are used throughout petitioner's brief (PB 2, 17, 21, 36, 38, 42, 45, 46, 47, 47-48, 58, 64).

It is thus plain at the outset that petitioner does not assert any right to engage in the acts prohibited by the Chancery Court's decree. That decree enjoins only (1) giving or furnishing legal advice, (2) solicitation by any means, directly or indirectly, of employment for any attorney, (3) controlling the amount of attorney's fees, (4) sharing in any manner in the legal fees of any lawyer or countenancing the splitting of such fees with any layman or lay agency, (5) any plan, pattern or design that results in channeling legal employment to particular lawyers, and

⁵³ Petitioner did not assert this right in its original answer filed August 7, 1959 (R. 4-6). Its amended answer filed April 10, 1961, asserted the right "to advise injured members to consult or employ attorneys and doctors for the purpose of protecting their rights" (R. 12-13). That language was repeated in its motion to dismiss filed January 23, 1962 (R. 23). Petitioner assigned as error in the Supreme Court of Appeals of Virginia the failure to recognize its "right to inform its members to consult or employ attorneys" (R. 29). The petition to rehear in that court was silent on the point. The petition for certiorari employed for the first time substantially the words quoted (PC 7-8, 17, 18).

(6) violating the laws of Virginia governing the practice of law (R. 26-28).

There is no question in issue. The decree of the Chancery Court obviously does not touch the right asserted. There is nothing for the Court to decide and consequently no jurisdiction of this cause pursuant to 28 U.S.C.A., § 1257 (3) the sole basis on which the jurisdiction of this Court is invoked (PC 2; PB 2). The writ of certiorari should be dismissed as improvidently granted.

PART II. THE OVERRIDING STATE INTEREST

The practices enjoined by the Chancery Court decree are the following (R. 26-28): (1) giving or furnishing legal advice, (2) solicitation by any means, directly or indirectly, of employment for any attorney, (3) controlling the amount of attorney's fees, (4) sharing in any manner in the legal fees of any lawyer or countenancing the splitting of such fees with any layman or lay agency, (5) any plan, pattern or design that results in channeling legal employment to particular lawyers, and (6) violating the laws of Virginia governing the practice of law. None of the foregoing abridge the right asserted by petitioner.⁵⁴

While the foregoing prohibitions have been expressed in statutes and in canons of ethics, their historical origins are found in the common law. Barratry, champerty and maintenance have always been reprehensible *per se*.

This Court recently recognized the validity of "Virginia's interest in regulating the traditionally illegal practices of

⁵⁴ See Argument, Part I, *supra*, pp. 43-45.

barratry, maintenance and champerty" and that "statutory regulation of unethical and nonprofessional conduct by attorneys has been in force in Virginia since 1849." That regulation prior to 1956 was there aptly described: "These provisions outlaw, inter alia, solicitation of legal business in the form of 'running' or 'capping'."

The majority opinion in *Button*⁵⁵ acknowledges the fact that the Virginia statutes regulating the legal profession and related aspects prior to the 1956 amendment merely embodied the traditional common law prohibitions which exist today irrespective of any statute.

Petitioner has expressed doubt concerning the basis for respondent's position. Petitioner is correct in asserting that respondent did not rely upon the statutes as amended by the 1956 Special Session of the General Assembly of Virginia⁵⁶ (PB 32). Respondent did rest its case, and now does, upon the traditional prohibitions of the common law, the Rules of the Supreme Court of Appeals of Virginia defining the practice of law and the Canons of Professional Ethics adopted therein, and the statutes collateral thereto then and now in force and effect.⁵⁷

The crux of the majority opinion in the *Button Case* appears to rest in "the vital fact" that the Court viewed the practices there under consideration as a constitutionally privileged "form of political expression" to secure con-

⁵⁵ *N.A.A.C.P. v. Button* (1963), 371 U.S. 415, 9 L.Ed. 2d 405, 83 S.Ct. 328.

⁵⁶ See *N.A.A.C.P. v. Button*, footnote 55.

⁵⁷ See Statutes Involved, *supra*, pp. 2-5.

stitutionally guaranteed civil rights. In the case at bar the civil action for personal injury is clearly *not* "a form of political expression". It is expressly "a technique of resolving private differences" and specifically is *not* "a means for achieving the lawful objectives of equality of treatment by all government, federal, state and local * * *." Nor is there any constitutionally guaranteed civil right involved.

In any event, the prohibitions of the Chancery Court decree fall within a class, consistently recognized by this Court, in which "a compelling State interest in the regulation of a subject within the State's constitutional power to regulate can justify limiting First Amendment freedoms". This Court has also consistently recognized that the States may regulate the professions. *Dent v. West Virginia* (1889), 129 U.S. 114, 32 L.Ed. 623, 9 S.Ct. 231; *Semler v. Oregon State Board of Dental Examiners* (1935), 294 U.S. 608, 79 L.Ed. 1086, 55 S.Ct. 570; *Williamson v. Lee Optical of Oklahoma, Inc.* (1955), 348 U.S. 483, 99 L.Ed. 563, 75 S.Ct. 461. The States are the best judge of the regulations necessary in the interest of public safety and welfare. *Graves v. Minnesota* (1926), 272 U.S. 425, 71 L.Ed. 331, 47 S.Ct. 122.

The legal profession is the only profession whose conduct is controlled by the courts through their inherent power as well as by State regulation. This Court, at the summit of the judicial system, should have special interest in maintaining the standards of the legal profession particularly when the practices under its scrutiny are repeatedly and brazenly employed to violate those standards.

Each of the prohibitions of the Chancery Court decree is a proper exercise of Virginia's right to regulate the

practice of law, conceded by petitioner. (PB 43), that overrides the First and Fourteenth Amendment freedoms.

Petitioner makes no contention that it has a right to *give legal advice* notwithstanding President Kennedy's testimony that petitioner actually does so (R. 63). Condemnation of such activity by laymen or lay agencies is universal.

Petitioner agrees that *fee splitting*, enjoined by the decree, is an objectionable practice properly condemned by the Illinois decree with which it claims compliance (R. 5-9; PB 12-13, 18). The evils inherent in fee splitting are self-evident and standing alone are a sufficient basis for the State's overriding interest.

The prohibitions of the decree against *furnishing legal advice* and *controlling the amount of legal fees* both involve the presence of a lay intermediary specifically dealt with in Canon 35.²⁸ Although the narrow right asserted by petitioner does not touch this aspect of the matter,²⁹ and although the Illinois decree, with which petitioner claims compliance, enjoins it (PB 18), petitioner argues that its interest "in its members is personal, not pecuniary" (R. 20) and insinuates that this Court should adopt a theory similar to that of Justice Traynor and Mr. Drinker and approve petitioner's Legal Aid Plan on the ground that there is no conflict of interest between the Union and the injured member or other abuse such as to bring into effect Canon 35 (PB 28-29, 58-59). That effort to bring the case at bar under the *Button* decision necessarily fails because the majority opinion in *Button* plainly states that "Objection

²⁸ *Supra*, pp. 4-5.

²⁹ See Argument, Part I, *supra*, pp. 43-45.

to the intervention of a lay intermediary * * * also derives from the element of pecuniary gain", an element which plays so prominent a part in the multi-million dollar personal injury business enjoyed by petitioner's sixteen or seventeen chosen counsel. These lawyers hold that lucrative status subject to the pleasure of one individual only, the President of the Brotherhood (R. 40). President Kennedy testified that he would remove any Regional Counsel who did not operate or charge fees to suit him and agreed that he exercised control over them "at least to that extent" (R. 108). There can be little doubt of the conflict in loyalty to the source of the guaranteed volume that warrants the continued⁸⁰ cut-rate (Pl. Ex. 35, R. 531, 888) and to the needs of the individual client in the individual case.

The Chancery Court decree further enjoined *solicitation* and *channeling legal employment*, the latter being the result of effective group solicitation (R. 27-28, 26).

The term "channeling" proves especially annoying to the petitioner (PB 14, 40, 52-54) because it is the indispensable element without which the Legal Aid Plan cannot "give regional lawyers a reasonable assurance of a sufficient volume of Brotherhood business to warrant the rendering of proper service on the basis of compensation agreed upon" (Pl. Ex. 35, R. 531, 888), i.e. the advertised "whole-sale rates" available to members only and constituting an inducing cause for trainmen to join the Brotherhood (PB 53), and thereby establish the monopoly originally envisioned (Pl. Ex. 17 (c), R. 564, 824).

Solicitation of legal business has been condemned from

⁸⁰ The 25% rate continued after April 1, 1959. See *supra*, p. 43.

the beginning of the legal profession and its traditional prohibition is embedded in the common law. The majority opinion in the *Button Case* appears to excuse solicitation in that case on the theory that the activities of the N.A.A.C.P. sought "to achieve legitimate political ends" by "a form of political expression", devoid of any financial interest and protected by the First and Fourteenth Amendments. Petitioner's activities seek no *political* end nor the attainment of any constitutionally guaranteed civil right. The enormity of the financial interest disclosed by the record in the case at bar is undenied.

Petitioner's present attitude on the matter of channeling legal business comes as a distinct surprise in view of its counsel's opening declaration to the Chancery Court: "The respondent alleges that it has the legal right, it has the constitutional right to advise with its members, give them any information it has, and also to advise lawyers generally or specifically, *but not to channel business. I don't think it has that right*" (R. 436-437-Italics ours).

The Virginia laws governing the *practice of law* on which respondent relies are narrowly drawn and embody definitions well understood and accepted for centuries. Running, capping, solicitation and maintenance are terms of the common law, the meaning of which have not heretofore been deemed vague or overbroad. The Virginia Bar relies upon no enlarged legislative definition of them which can be thought by anyone to have been directed at any particular political group, racial or otherwise. The majority opinion in *Button* limited its position on the right of the State to regulate the solicitation of legal business to the activities of the N.A.A.C.P. "shown on this record" which were considered "modes of expression and association pro-

ected by the First and Fourteenth Amendments." Otherwise, it found no fault with the Canons of Ethics declaratory of the traditional restraints of the common law.

PART III. THE FEDERAL RAILWAY LABOR ACT

The Federal Railway Labor Act, 45 U.S.C.A., §§ 151-163, has not the remotest relevancy to any aspect of the case at bar.

At the outset the Court is reminded that petitioner claims nothing more from the Railway Labor Act than support for "the right to make known to its members the advisability of obtaining legal advice and to make known the names of competent counsel in connection with rights of members under The Federal Employers' Liability Act, notwithstanding any rule or doctrine of State Law" (PB 47-48). This is the only right that petitioner asserts (PB 2, 17, 21, 36, 38, 42, 45, 46, 47, 47-48, 58, 64). The decree of the Chancery Court does not touch the right claimed, as shown in Part I of the Argument, nor is it in conflict in any respect with the Railway Labor Act.

Notwithstanding the foregoing definite statement of the right claimed, so many times asserted, petitioner insinuates into his argument the insidious idea that the Railway Labor Act really grants petitioner the right to practice law for its members in the courts. Petitioner attempts that conclusion by distorting the historic meaning and intent of the word "grievances" as employed in the field of labor relations (PB 48-52). It cannot be imagined that, because jurisdiction to hear grievances is conferred by the Act upon the National Railroad Adjustment Board, the Congress intended also to confer upon that Board jurisdiction of

F.E.L.A. cases concurrent with the courts; much less an intention to authorize the Brotherhood to stand finally before this Court as its members' counsel. The only decision on this point," dealt expressly with it at the instance of the Brotherhood and decided:

"The Brotherhood defends its practices on legal grounds, and also argues that they are justified by policy considerations. As a matter of law it argues that its method of handling the personal injury and death claims of its members is permissible because under the Railway Labor Act the Brotherhood is authorized to represent its members, before the National Railroad Adjustment Board or other appropriate tribunals, in the processing of disputes growing out of grievances. (45 U.S.C. 152.) But these injury and death claims are not the kind of labor disputes that the statute contemplates. We find nothing to suggest that Congress intended by the Railway Labor Act, any more than by the Labor Management Relations Act, (29 U.S.C. 141) to overthrow State regulation of the legal profession and the unauthorized practice of the law." (13 Ill. 2d, at p. 395, 150 N.E. 2d, at p. 166.)

Petitioner accepted that decision, has urged it as the standard for its operations nationwide, heralded it as a "major victory", and has relied upon it throughout this litigation (PB 18; Pl. Ex. 72, R. 586, 927). Now, petitioner argues that the Illinois Court "committed basic and funda-

¹¹ *In re Brotherhood of Railroad Trainmen* (1958), 13 Ill. 2d 391, 150 N.E. 2d 163.

mental error in so holding" and urges in support of this contention an example given by Justice Rutledge,²³ taken out of context and which, when considered in the light of the issues and the entire opinion, does not sustain the inference that petitioner seeks to draw therefrom (PB 51-52).

Petitioner ignores the issue that was before this Court in *E.J. & E. v. Burley*. The only issue there under consideration was whether the union had an exclusive right to represent its members before the National Railroad Adjustment Board which has jurisdiction only over the "second class" of claims referred to by Justice Rutledge which "contemplates the existence of a collective agreement already concluded or, at any rate, a situation in which no effort is made to bring about a formal change in terms or to create a new one." The succeeding discussion by Justice Rutledge in that opinion clearly shows that the words used by him and now relied on by petitioner, "e.g. claims on account of personal injuries", had no reference whatever to civil actions at law for monetary damages under F.E.L.A. for the injuries themselves. That language referred only to situations under existing collective bargaining agreements or situations omitted therefrom which emanate from and are incidental to the fact of such personal injury. The F.E.L.A. claim is "for" personal injury. The claim before the National Railroad Adjustment Board is a claim under the collective bargaining agreement or of the kind that might have been included in it that may be pointed up by or "on account of" a personal injury.

²³ *E.J. & E. Rwy. Co. v. Burley* (1945), 325 U.S. 711, 89 L.Ed. 1886, 65 S.Ct. 1282.

The legislative intent expressed in 45 U.S.C.A., § 151a (5)⁶³ is plainly shown by the statement of Senator Watson, speaking in favor of the bill on May 6, 1926:⁶⁴

"* * * but the Board of Adjustment in that case [Ech-Cummins Act], as in this bill provided, had to do only with grievances—that is to say, with the interpretation and application of existing agreements as to wages, hours of labor and conditions of service—not as to wages, conditions of service, and hours of labor themselves, but as to the application and interpretation of existing contracts as to them."

Any other construction of the Act would of necessity deprive the carrier of the right to jury trial guaranteed by the Seventh Amendment to the Constitution of the United States. The interpretation of the Railway Labor Act urged by petitioner would permit a railroad employee plaintiff to present his F.E.L.A. claim to the National Railroad Adjustment Board where the facts are determined and subject only to judicial review. 45 U.S.C.A., § 153.

The respondent is unable to find any case in any court where the claim made under 45 U.S.C.A., § 151a (5) was an action for personal injury or death.

⁶³ § 151a. "General purposes. The purposes of the chapter are: * * * (5) to provide for the prompt and orderly settlement of all disputes growing out of grievances or out of the interpretation or application of agreements covering rates of pay, rules, or working conditions."

⁶⁴ 64 Congressional Record, 8,808

PART IV. THE ABSENCE OF GOOD FAITH

Petitioner has sought to clothe its activities with an aura of virtue by distributing at will throughout its brief sanctimonious declarations of innocence unsupported by any fact. This necessitated the detailed examination hereinabove made of the actual operation of its Legal Aid Plan since its inception 33 years ago in order that the decision of this Court may be based upon the whole truth concerning the Brotherhood's operations. Respondent fully appreciates and knows that the sufficiency of the evidence to sustain the injunctive relief awarded is a matter of local law and of no concern to this Court. At the same time it seemed necessary to show to this Court the true nature of this litigant which seeks unobtrusively to slip under the protective umbrella spread by the *Button Case* where it plainly does not belong.

Of particular interest on the question of good faith is petitioner's pretension that it is in compliance with the Illinois decision (R. 18) when the evidence clearly shows that it is not, not even in Illinois.⁶⁵ Even President Kennedy conceded that the claimed right to recommend competent counsel did not extend to persuasion or urging members to employ any particular lawyer. He agreed that taking a member to the attorney was wrong. The right to recommend according to Kennedy went no further than "he could just mention the attorney's name" (R. 60).

It should be obvious that the enormous volume of F.E.L.A. cases of Brotherhood members could not find their way to so limited a group of lawyers by the mere

⁶⁵ *Supra*, pp. 34-36.

exercise of the right claimed without the wholesale solicitation contemplated by petitioner's plan. The proof of the pudding is in the eating.

CONCLUSION

The real question presented by this case, if any, is whether the states have the right to maintain ethical standards in the practice of law as a profession or whether they may be required by this Court to relegate the practice of law to the level of commercial enterprise.

The writ of certiorari should either be dismissed as improvidently granted or the decree of the Chancery Court should be affirmed.

Respectfully submitted,

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IN THE
Supreme Court of the United States

OCTOBER TERM, 1963.

No. 34

BROTHERHOOD OF RAILROAD TRAINMEN,

Petitioner,

vs.

**COMMONWEALTH OF VIRGINIA; EX REL. VIRGINIA
STATE BAR,**

Respondent.

**ON WRIT OF CERTIORARI TO THE SUPREME COURT OF APPEALS OF
THE COMMONWEALTH OF VIRGINIA.**

**BRIEF OF THE AMERICAN BAR ASSOCIATION
AS AMICUS CURIAE.**

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**IN THE
Supreme Court of the United States**

OCTOBER TERM, 1963.

No. 34.

BROTHERHOOD OF RAILROAD TRAINMEN,
Petitioner,
vs.

**COMMONWEALTH OF VIRGINIA, EX REL. VIRGINIA
STATE BAR,**
Respondent.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF APPEALS OF
THE COMMONWEALTH OF VIRGINIA.

**BRIEF OF THE AMERICAN BAR ASSOCIATION
AS AMICUS CURIAE.**

This Brief is filed by the American Bar Association as *Amicus Curiae*, pursuant to the written consent of the Brotherhood of Railroad Trainmen, Petitioner, and Virginia State Bar, Respondent. The stipulation is filed with the Court, with this Brief.

THE OPINION BELOW.

The Opinion below is the Injunction Decree, entered by the Chancery Court of the City of Richmond, Virginia, on January 29, 1962, affirmed by the short Order entered by the Supreme Court of Appeals of Virginia on June 12, 1962, denying the Appeal, with Petition for Rehearing denied on August 31, 1962.

THE QUESTIONS PRESENTED.

The Brotherhood of Railroad Trainmen states (BRT Brief, p. 2) that the questions presented are:

"(1) Whether the Brotherhood of Railroad Trainmen and its members have the right to make known to its members generally, and to injured members and survivors of deceased members in particular, first, the advisability of obtaining legal advice before making settlement of their claims, and second, the names of competent attorneys to handle such claims, and whether these rights are protected by the First and Fourteenth Amendments to the Constitution of the United States?"

"(2) Whether the Federal Railway Act, which authorizes the Brotherhood to represent its members generally and specifically to handle their 'grievances,' creates such an interest in the Brotherhood, that it has the right to make known to its members the advisability of obtaining legal advice and to make known the names of competent counsel in connection with rights of members under the Federal Employers' Liability Act, notwithstanding any rule or doctrine of State law?"

The American Bar Association respectfully submits that the foregoing is an incorrect statement of the questions presented, in that the foregoing fails to relate to the "questions presented" to the "opinion below."

The Virginia State Bar states that the question presented is:

"Whether the decree of the Chancery Court of the City of Richmond does in fact enjoin, restrain or deprive petitioner of the rights claimed, to-wit, 'the right to make known to its members generally, and to injured members and survivors of deceased members in particular, first, the advisability of obtaining legal advice before making settlement of their claims, and second, the names of competent attorneys to

handle such claims,' whether protected by the First or Fourteenth Amendment or specifically authorized by the Railway Labor Act."

The American Bar Association respectfully submits that this is a more nearly accurate statement of the questions presented.

THE INTEREST OF THE AMERICAN BAR ASSOCIATION.

The American Bar Association, with over 114,000 members throughout the United States is the acknowledged leader of the Legal Profession of the United States as regards the Canons of Professional Ethics. The American Bar Association was organized in 1878. It began work on a comprehensive statement of Canons of Professional Ethics in 1905. It adopted Canons 1 through 32 in 1908. In the period since then, the Association has worked constantly and strenuously to implement the Canons, issuing over 300 Opinions of its Committee on Professional Ethics and meeting the challenge of changing times by continuing study and revision. The American Bar Association, therefore, is concerned that the practice of law retain that characteristic which makes it a profession, namely, ethical standards of conduct with regard to the duty of a lawyer to the Court, to his client, to his fellow lawyers, and to the public.

The interest of the American Bar Association, of course, goes beyond its Canons of Ethics. Those Canons have been adopted by most State and Local Bar Associations throughout the United States. Those Canons, moreover, have served as the basis for Rules of Court adopted by the Supreme Courts of many of the States, particularly in those states having Integrated Bar Associations. The principles set forth in the Canons derive in part from earlier Statutes and those principles are today part of the

Statutory Law of many States. Matters relating to the Canons, therefore, have an import extending far beyond the Canons themselves.

THE THEORY ADOPTED BY THE BROTHERHOOD.

The Brotherhood of Railroad Trainmen seeks a ruling from this Court, that the Brotherhood has the right, protected by the First and Fourteenth Amendments to the Constitution of the United States, and protected the National Railway Labor Act, to make known to injured union members or their survivors, first, the advisability of obtaining legal advice before settling their claims, and, second, the names of specific attorneys to whom they should take their claims. The Brotherhood contends that the Virginia Decree violates these rights and should be reversed.

The theory advanced by the Brotherhood is that, viewing the facts as it sees them, it has the right as a matter of law, to continue its practices.

The facts, as viewed by the Brotherhood, are that its activities, in advising injured members and in sending them to specific attorneys, are nothing more or less than a legitimate union activity, made necessary by the number of injuries encountered in railroading, by the aggressive acts of railroad claim-agents in trying to settle claims based on injuries, and by the ambulance-chasing activities of some attorneys in trying to persuade the injured person to retain them. The Brotherhood called this its "Legal Aid Department." It organized the department in 1930. In the period from 1930 to about 1959, the Brotherhood ran the Department as follows. It "appointed" one Regional Counsel in each of 16 (later 20) Regions through the United States. It "recommended" these attorneys and these alone, to its membership for the handling of their personal injury claims against railroads. It "assisted" the Regional Coun-

sel by requiring members to report their injuries to the attorneys; by requiring local lodge officers to call on the injured man and to repeat to him the "recommendation" that he employ the attorneys; and by requiring everyone concerned to send reports to a central clearing house in Cleveland, Ohio, called the "Legal Aid Office." The attorneys agreed with the Brotherhood that they would handle all cases on a 25 per cent contingent fee basis, netting 75 per cent of any recovery to the claimants. The attorneys paid the local lodge officers for their time and expenses in contacting the injured worker, plus a gratuity for each case brought in. The attorneys subsidized the injured person to a free trip, to and from the attorney's office for the initial interview. If additional monies were needed for medical and diving expenses, the attorneys made a "loan" of the necessary funds, which "loan" was repaid in the event of a recovery, but not otherwise. The attorney bore the cost of maintaining the clearing house in Cleveland or the "Legal Aid Office" as it was called. When this conduct was called into question in Illinois in 1956, and when the Supreme Court of Illinois handed down its decision *In re Brotherhood of Railroad Trainmen*, 13 Ill. 2d 391, 150 N.E. 2d 163 (1958), the Brotherhood gradually modified its practices, so as to eliminate all financial arrangements between the attorneys and the Brotherhood. The Brotherhood eventually changed the name of its operation from "Legal Aid Department" to "Department of Legal Counsel." The Brotherhood asserts that it no longer controls the pre-selected attorneys as regards the fee to be charged. The Brotherhood admits that it still selects each Regional Counsel; and that it still utilizes its resources to channel injury cases to the pre-selected Regional Counsel.

The Brotherhood, viewing the facts in this light, argues that it has the right to continue the system, as a matter

of law. First, the Brotherhood argues that it is simply advising union members generally as to their legal rights, and recommending specific attorneys, which rights, it is argued, are protected by the First and Fourteenth Amendments. Second, the Brotherhood argues that it has the legal right to continue these practices as part of an alleged statutory right to represent union members in bargaining under the National Railway Labor Act.

THE THEORY OF THE AMERICAN BAR ASSOCIATION.

The theory of the American Bar Association differs from that advanced by the Brotherhood both on facts and the law.

The American Bar Association views the Brotherhood system as one which involves the unauthorized practice of law by a lay organization, and which involves the organized soliciting of personal injury cases by certain attorneys. The Brotherhood system never was a "Legal Aid Department" in any real sense, but has always been a Brotherhood-endorsed system for channeling its members' personal injury cases to specific sets of attorneys throughout the United States. The Brotherhood attorneys, for their part, in the period from 1930 to about 1959, knowingly supervised and financed the actual running of one of the most extensive systems ever devised for the soliciting of cases. In the period since 1959, though no longer financing the system, the Brotherhood attorneys have nevertheless participated in continued solicitation. The American Bar Association contends that the Brotherhood's version of the facts is inaccurate in the following substantial respects:

First, the Brotherhood System was never properly called "The Legal Aid Department." The system actually operated solely to induce Brotherhood members

to retain certain selected attorneys to prosecute personal injury claims against railroads. It never had anything to do with any other type of case. It had nothing to do with "Legal Aid" as the term is generally understood.

Second, the Brotherhood says it is simply "recommending competent counsel" to its members. Actually, the Brotherhood has selected only one attorney or firm of attorneys in each of its Regions. Having selected such an attorney, the Brotherhood goes far beyond "recommending" that attorney to its members, and rather engages in a joint enterprise with the attorney to see to it that he gets the cases.

Third, the Brotherhood states that it has separated itself from attorneys and no longer has any control over them. Actually, the Brotherhood President, though no longer entering into direct written contracts with the attorneys, selects them and has the right to terminate them. The Brotherhood retains just as full control over its selected attorneys as it ever did.

The facts are set forth in detail in the Brief of the Virginia State Bar and will not be repeated in this Brief.

The theory of the American Bar Association as to the general law is that the Brotherhood, to the extent of its participation in the system, is engaged in offering of legal services, which amounts to engaging in the practice of law by an organization which is not and cannot be licensed to do so. The Association believes that, however the Brotherhood system is organized, so long as it involves the offering of legal service by a lay group, it will amount to unauthorized practice of law. The American Bar Association further contends that the attorneys, due to their high degree of involvement in a system of soliciting cases over a long period of time have knowingly violated the estab-

lished standards of conduct for the legal profession as set forth in the Canons of Professional Ethics.

The theory of the American Bar Association as to the law, on the particular record on the appeal before this Court, is that the grounds on which the Brotherhood seeks to avoid the legal effect of its actions are not valid, in that the Virginia Injunction Decree is within that State's constitutional power to regulate the practice of law, and that it does not violate any right of the Brotherhood secured by the First and Fourteenth Amendments. The Association's position, further, is that the second ground on which the Brotherhood seeks to avoid the legal effect of its actions is not valid, in that the National Railway Labor Act has nothing whatever to do with union members' personal injury claims.

The American Bar Association, in short, contends that the Brotherhood's part in this soliciting enterprise is prohibited by law; that the part played by the attorneys in the enterprise is prohibited by the Canons of Professional Ethics; and that the Virginia Injunction Decree, prohibiting such solicitation, is within the power of that State to regulate the practice of law and is not subject to objection on grounds related to Federal Statutes or the Constitution of the United States. The American Bar Association respectfully submits that this Court should dismiss the Appeal or affirm the Virginia Injunction Decree.

ARGUMENT.

POINT ONE.

THE VIRGINIA DECREE IS NOT SUBJECT TO OBJECTION ON THE GROUND THAT IT CONTRAVENES THE BROTHERHOOD'S RIGHTS UNDER THE FIRST AND FOURTEENTH AMENDMENTS OF THE CONSTITUTION OF THE UNITED STATES. THE VIRGINIA DECREE, PROHIBITING THE ORGANIZED SOLICITATION OF PERSONAL INJURY CASES FOR SPECIFIC ATTORNEYS, IS WITHIN THE POWER OF THE STATE TO REGULATE THE PRACTICE OF LAW. THE BROTHERHOOD, BY OFFERING THE LEGAL SERVICES OF SPECIFIC ATTORNEYS, IS ENGAGED IN THE UNAUTHORIZED PRACTICE OF LAW. THE ATTORNEYS, BY KNOWINGLY AND INTENTIONALLY SOLICITING CASES OVER A LONG PERIOD OF TIME, BY ALLOWING A LAY AGENCY TO INTERVENE BETWEEN THEMSELVES AND THEIR CLIENTS, AND BY AIDING A LAY AGENCY IN THE UNAUTHORIZED PRACTICE OF LAW, HAVE VIOLATED THE CANONS OF PROFESSIONAL ETHICS.

A. The Virginia Decree and the Power of the State.

The Virginia Decree enjoins the following activities of the Brotherhood of Railroad Trainmen: (1) giving or furnishing legal advice, (2) solicitation by any means, directly or indirectly, of employment for any attorney, (3) controlling the amount of attorney's fees, (4) sharing in any manner in the legal fees of any lawyer or countenancing the splitting of such fees with any layman or lay agency, (5) any plan, pattern or design that results in channeling legal employment to particular lawyers, and (6) violating the laws of Virginia governing the practice of law.

This Decree is within the power of the State of Virginia to regulate the practice of law. The Brotherhood does not dispute this. It is established that the State Courts have a substantial interest in regulating the practice of law, such

as to permit them to prescribe the obligations of attorneys appearing before them. *Bradwell v. Illinois*, 16 Wall. 130, 139, 21 L. Ed. 442 (1873). It is also established that this permits the State Courts to determine who shall not practice law. *People ex rel. Chicago Bar Association v. Goodman*, 366 Ill. 346, 8 N. E. 2d 941, cert. denied, 302 U. S. 728 (1937). This includes the power to determine what constitutes the practice of law. *Lowell Bar Association v. Loeb*, 315 Mass. 176, 52 N. E. 2d 27 (1943); *Gardner v. Conway*, 234 Minn. 468, 48 N. W. 2d 788 (1951); and *West Virginia Bar v. Earley*, 144 W. Va. 504, 109 S. E. 2d 420 (1959).

The Virginia Decree, judged solely in the light of these established precedents, is well grounded and not subject to any objection whatsoever. There remains, however, the question sought to be raised by the Brotherhood in the present case, namely, whether the Virginia Decree violates the Brotherhood's rights under Federal Statutes or the Constitution of the United States. The Federal Statute is discussed in this Brief at Point Two, *infra*, p. 23. The constitutional question is discussed immediately hereafter.

B. The Virginia Decree and Constitution of the United States.

1. The Specific Content of the Virginia Decree and the Facts and Law on Which It Is Based.

The American Bar Association respectfully submits that, before testing the Virginia Decree as regards its constitutionality, the exact content of the Decree must first be ascertained. It is not enough to examine the Decree, standing alone. It must be judged in the light of the facts contained in the Record before the Chancery Court. It must also be judged with regard to the principles of law, relied upon as a basis for the Decree. The law in this case relates largely to the Canons of Professional Ethics, and the Rules

of Court, Statutes and Decided Cases embodying the principles of the Canons. The Supreme Court of Appeals of Virginia adopted the Canons of Professional Ethics, as Rules of Court for the Integrated Bar, in 1938. 171 Va., pp. xviii *et seq.* (1938). The facts and the law, in this instance, appear to relate to three principal matters—Soliciting, Intermediaries, and the Unauthorized Practice of Law.

a. *The Soliciting.*

The Virginia Decree enjoins "solicitation by any means, directly or indirectly, of employment for any attorney" and "any plan, pattern, or design that results in channeling legal employment to particular lawyers." It must be noted that the Decree prohibits soliciting with regard to any *specific attorney or attorneys*. It does *not* prohibit general discussion as to the advisability of obtaining legal services, nor does it prohibit general discussion as to the advisability of retaining an attorney, provided the discussion is as to attorneys in general and not in particular. This is entirely consistent with the facts and the law.

Canon 37 prohibits the soliciting of law business by attorneys. This rule of conduct is based on the notion that it is of the essence in any true profession not only that the professional man be skilled, but also that he apply his skill in as objective a manner as possible. Laymen seeking the professional advice of an attorney want, and are entitled to, the attorney's detached judgment. The public is best served by the attorney who strives to give his best individual judgment and whose reputation is based on that judgment. The public is not well served by attorneys who seek to attract clients by self-advertising and soliciting, because these activities make it difficult, if not impossible for there to be any objective judgment. The public generally has wiser instincts in this regard than is usually sup-

posed. Most lay persons instinctively prefer to seek the professional man rather than to be sought after by him. This is one of the basic notions inherent in any true profession.

The Canon against soliciting is also based on the concept that an attorney is an officer of the court. He has an obligation to the court, and to the public, not to stir up litigation. This concept is embodied in Canon 27, prohibiting solicitation, and Canon 28, prohibiting the stirring up of litigation. (See Appendix I, *infra*, p. 27.)

Finally, the Canon against soliciting is based on the public policy that it is improper to subject an injured man and his family to undue pressure, merely to gain his commitment to an attorney's retainer contract.

The Brotherhood system as it operates today includes local union lodge officers, who act as contact men; paid investigators, who act as high-pressure salesmen; and a central office in Cleveland, Ohio, which searches out personal injury claims and helps to solicit them. The system includes persistent and repeated pressure on the injured man, by visits, telephone and mail, all urging him to retain one attorney. The pressure on the injured man is increased by the fact that it is all done in the name of the Brotherhood, so much so that some men sign up under the impression that they are requesting a Brotherhood investigation. The system is designed to be, and is indeed, productive of substantial fees to the Brotherhood-designated attorneys. They know all about the system. They participate in it. Their activity amounts to solicitation, in clear violation of Canon 27. The Brotherhood still promotes and aids this organized solicitation.

The Brotherhood does not seriously contest the conclusion that both it and its attorneys are engaged in the solicitation of personal injury cases. The Brotherhood argues

that, even if it is solicitation, it is justified by virtue of the personal relation said to exist between the union and its members. The difficulty with this argument is that it does not fit the facts. The Canon, in permitting referrals where justified by personal relations, has reference to the occasional recommendations made by one who is closely related, either professionally or personally, to the client. The Canon does not permit any group, whether it is a corporation or an association or a union, to establish an *organized system for channeling clients to pre-selected attorneys*.

The Brotherhood argues that Canon 27 is out-of-date; that it was adopted when economic conditions were different than at present; and that it should therefore not be applied to attorneys for modern labor organizations. The short answer to this is that most courts and most attorneys still consider the principle of the Canon to be valid, namely, that a professional man is better able to render professional service to the public if he is one who does not seek business but whose advice is sought. The Canon has never provided any exception for any one group of attorneys. It would be indefensible to permit the sixteen pre-selected Brotherhood attorneys to solicit law business, while prohibiting such conduct on the part of all other attorneys. The franchise to practice law cannot thus be subdivided into further sub-franchises. It is, and should be, substantially the same franchise for all. The only other alternative would be to permit all attorneys to solicit law business. No partial compromise is possible; for, if one group of attorneys is permitted to solicit, on the ground that they represent a particular group with a so-called community of interest, then it will be a simple matter for any attorney to find a similar group and to claim the same privilege. The result would be that the exceptions to the Canon would consume the Canon itself, until soliciting by all became the rule. This would be intolerable.

Solicitation is not only prohibited by Canon 27 but has been uniformly condemned by the courts. The Brotherhood system itself is condemned in *In re O'Neill*, 5 F. Supp. 465 (D.C.E.D. N.Y., 1933); *Hildebrand v. State Bar of California*, 36 Cal. 2d 504, 225 Pac. 2d 508 (1950); *Petition of Committee on Rule 38 of the Cleveland Bar Assn.*, 15 Ohio L. Abs. 106; *Doughty v. Grills*, 37 Tenn. App. 63, 260 S. W. 2d 379 (1952); and see *Atchison R. Co. v. Jackson*, 235 Fed. 2d 390, 393 (CA-10, 1956). Cases condemning solicitation generally are collected in *Annotation, Advertising by Attorney as Ground for Disciplinary Action*, 39 A.L.R. 2d 1055-1072 (1955); and *Annotation "Ambulance Chasing" or Similar Solicitation of Personal Injury Cases as Ground for Disciplinary Action*, 67 A.L.R. 2d 859-932 (1959). The Brotherhood contends that the *Illinois Brotherhood Case* expressly permits it to make known to its members the names of attorneys who, in its opinion, have the capacity to handle such claims successfully, while it is true that this language appears in the *Illinois case*, it is respectfully submitted that this does not constitute approval of the continuous reference of personal injury cases to the same attorneys over a long period of time. The *Illinois case* cannot be construed to permit such organized solicitation, because to do so would fly in the face of the overwhelming weight of authority, including the majority of cases decided in *Illinois itself*. *In re Donaghy*, 402 Ill. 120, 83 N. E. 2d 560 (1948); and *In re Cohn*, 10 Ill. 2d 186, 139 N. E. 2d 301 (1956).

The Ethics Committees of various Bar Associations, moreover, have had occasion to rule on similar matters. The New York County Bar Association reached the same result where a lay collection agency sought to advertise certain attorneys to its subscribers (Opinion 136, Committee on Ethics, N. Y. County Bar Ass'n.) (Opinions of Committees on Professional Ethics of Ass'n. of Bar of City

of New York, and New York County Lawyers' Ass'n., Columbia Univ. Press, 1956, pp. 589-590). The American Bar Association reached the same result in a case where a manufacturer's association sought to send out bulletins to its members, the bulletin naming a specific attorney as "general counsel" (A.B.A. Opinion 285) (Opinions of ABA Committee on Professional Ethics, 1957, pp. 604-606). These rulings indicate that Canon 27 applies, without discrimination, to all attorneys; and that the "personal relation" exception is not available to any organized group which seeks regularly to recommend that all its members employ certain named attorneys.

b. *Intermediaries.*

The Virginia Decree also enjoins the Brotherhood from "controlling the amount of attorney's fees." This, too, is consistent with the facts and the law.

Canon 35 requires that the attorney's relationship with his client be direct and that it not be subject to the control of any intermediary. (See Appendix I, *infra*, p. 28.) It provides that an attorney may accept employment by a club or association, to render services to it as an entity, but not to render services to its members. This Canon is based on the notion that, as an attorney's services are professional and highly individual, so his relationship with his client should be direct and individual. It is based also on the notion that no other person or group, whose interests may conflict, should be permitted to intervene between the attorney and his client. Finally, it is based on the notion that each person has the right to select his own attorney.

The Brotherhood system puts the union between the attorney and his client. This has two undesirable results. First, it deprives the individual of his freedom to choose his own attorney and thrusts a pre-selected attorney upon

him. The sixteen Brotherhood attorneys, moreover, are pre-selected by the Brotherhood President, solely on his own decision as to location and identity, with the result that, if a Brotherhood member is injured in a designated "region," he is automatically urged to go to the one pre-selected attorney for that region. The second undesirable result is that it deprives the lawyer of his independence of judgment. The testimony, moreover, makes it clear that the Brotherhood President decides what region each attorney should service and what fee he should charge. The possibilities of a conflict in interest in such a situation are clear.

Considerations such as these have led to numerous decisions holding that an attorney cannot accept employment from a corporation, agency or association, if such employment involves the handling of legal matters for employees or members. The American Bar Association has held that this applies to corporations (A.B.A. Opinions 10, 31 and 41, *op. cit. supra*, pp. 79, 115 and 129); an automobile club (A.B.A. Opinion 8, p. 71); a Grange Association (A.B.A. Opinion 56, p. 149); a bankers' association (A.B.A. Opinion 98, p. 213); and manufacturers' associations (A.B.A. Opinions 168 and 273, pp. 341 and 570). There is no reason for not applying the same rule to a labor union.

c. The Unauthorized Practice of Law.

The Virginia Decree also enjoins the Brotherhood from "violating the laws of Virginia governing the practice of law." This is in accord with the facts and the law.

The general rule is that a non-lawyer cannot practice law, nor can he offer legal services on a continuous basis. The leading case is *People ex rel. Chicago Bar Assn. v. Chicago Motor Club*, 362 Ill. 50, 199 N. E. 1 (1935). In that case, the Court said (at p. 57), "no corporation, associa-

tion or partnership of laymen can contract with its members to supply them with legal services." This is in accord with the overwhelming majority of decisions throughout the United States. The Rhode Island Supreme Court, for instance, held that the same rule applied to a non-profit voluntary association. *Rhode Island Bar Assn. v. Automobile Service Assn.*, 55 R. I. 122, 179 Atl. 139, 100 A.L.R. 226 (1935). The Tennessee Court of Appeals has held that the activities of the Brotherhood of Railroad Trainmen constitute the unauthorized practice of law and has enjoined the same. *Doughty v. Grills*, 37 Tenn. App. 63, 260 S. W. 2d 379 (1952).

The public policy behind these decisions is that the franchise to practice law is an individual privilege, granted only to persons who meet certain educational and professional standards. The persons to whom the privilege is granted, moreover, must continue to meet certain professional standards in their practice or be subject to discipline, including possible disbarment. The entire matter is, like the relationship between any professional man and his client, highly individual. If the privilege, or control of the privilege, were to be given to corporations or associations, the individual nature of the franchise would be lost; the individual responsibility would be diluted; and, in cases where professional standards are violated, it would be difficult, if not impossible, for the courts to determine who committed the breach and who should be disciplined.

This public policy has also found expression in an Opinion by the Unauthorized Practice Committee of the American Bar Association. Answering an inquiry addressed to it by the Ethics Committee in 1950, the Unauthorized Practice Committee stated that, in its opinion, a labor union which employed attorneys to give legal advice to union members would be engaging in the unauthorized

practice of law. The opinion, "Informative Opinion A of 1950," is set forth in full, with extensive citations of authority, as Appendix II of the Appendices filed with this Brief.

The facts in the present case clearly show that the Brotherhood of Railroad Trainmen is engaged in the unauthorized practice of law. The Brotherhood selects attorneys to give legal advice to Brotherhood members. The Brotherhood tells its members that the pre-selected attorneys are the only ones who are really qualified to handle their personal injury claims. The Brotherhood does all it can to channel the larger personal injury claims to the pre-selected attorneys.

The Brotherhood argues that its system is not the unauthorized practice of law but is a form of legal aid to those who need it. This argument is, so far as this case is concerned, completely misleading. The record in this case shows that the Brotherhood and its attorneys are concerned only about personal injury claims with a good recovery potential. It is worth noting that a recent book on Legal Aid has this to say about such cases (Emery A. Brownell, "Legal Aid in the United States," 1951, at page 75):

"Personal Injury and tort cases. No Legal Aid organization handles cases which will attract competent attorneys on a contingent-fee basis. This being an acceptable and recognized fee practice of the profession in this country. Legal Aid is not needed on claims of this sort unless the amount involved is quite small or the prospect of recovery so slim that an attorney cannot be secured." (Italics added.)

This case, in other words, does not involve any question of legal aid, as the term is generally understood. There is no issue whether labor unions generally can have legal aid plans. There is no evidence in this record concerning what, if anything, other labor unions have in the way of legal

aid. The record clearly shows that the one problem which has concerned the Brotherhood since 1930 is not legal aid for its members but how to handle their personal injury claims. These personal injury claims, by their very nature, attract competent counsel in such numbers that it is absurd to speak of them as being a proper type of case for legal aid. Remunerative personal injury cases and legal aid are mutually exclusive terms.

The proscription of lay groups, from engaging in the unauthorized practice of law, also applies to attorneys who help the lay group.

Canon 47 provides that attorneys shall not aid any lay agency engaged in the unauthorized practice of law. The policy behind this rule is that, if a lay agency is violating the law, *a fortiori* no attorney should be permitted to help it violate the law. (See Appendix I, *infra*, App. p. 29.)

The Brotherhood quotes an observation made by Henry S. Drinker, to the effect that Canon 47 should not apply to attorneys employed by a union to furnish legal aid to union members (Henry S. Drinker, "Legal Ethics," Columbia Univ. Press, 1953, p. 167). The American Bar Association contends that this is not persuasive for two reasons. First, Mr. Drinker was writing in his individual capacity only and not on behalf of the American Bar Association. The Association's position is set forth in its Canon 47, which is still in effect. Second, Mr. Drinker was not referring to a nationwide system for soliciting lucrative personal injury cases.

The facts and the law, therefore, clearly support that part of the Virginia Decree which prohibits the Brotherhood from engaging in the unauthorized practice of law.

d. *Conclusion as to Decree.*

The Brotherhood's basic position is that it should be permitted to continue its practices because it is a labor union whose members face difficult problems in connection with their personal injury claims against their employers. This, however, does not entitle the Brotherhood or its attorneys to special treatment. If the Brotherhood is permitted to continue its practices, every corporation and association will have good ground to claim the same privilege. This cannot be permitted to happen. It is respectfully submitted that the remedies to this situation lie elsewhere—if Brotherhood members are badgered by ambulance-chasing attorneys, complaint should be made and the attorneys should be disciplined; and if the railroads' lay claim agents improperly seek to pressure injured men into fast settlements, the union men can be warned to take care and to file complaints in the event of such overreaching. The remedy for two wrongs—pressure by unethical lawyers and pressure by lay claim agents—is not to be found by creating a third wrong—a highly-organized system for running all members' personal injury cases to selected attorneys.

2. The Virginia Decree Clearly Does Not Violate Any Constitutional Rights of the Brotherhood

This brings us to the heart of this case, as it stands before this Court. The question is whether the Virginia Decree violates the Brotherhood's right of Free Speech.

The American Bar Association respectfully submits that the Virginia Decree clearly does *not* violate the Brotherhood's right of Free Speech. Mr. Justice Holmes once observed, in one of his unpublished writings, that, "The restatement of the obvious is often more important than the elucidation of the obscure." It appears to be obvious

that this cause would not be before this Court but for the fact that this Court recently decided in *N. A. A. C. P. v. Button*, 371 U. S. 415, 9 L. Ed. 405, 83 S. Ct. 328 (January 14, 1963). It further appears to be obvious that the *Button Case*, relating to protection of the N. A. A. C. P. right of Free Speech as regards effective expression of its political objectives under *Brown v. Board of Education*, 347 U. S. 483 (1954), does not support any claim of the Brotherhood of Railroad Trainmen for protection of entirely different rights related to the Brotherhood's system for the organized solicitation of the personal injury cases of its members for pre-selected attorneys.

The specific content of the Virginia Decree in the *Brotherhood Case* clearly relates to prohibition of solicitation of personal injury cases for pre-selected attorneys. This is not a "protected mode of expression" within the meaning of those cases striking down limitations on Free Speech. It is, rather, conduct which is within the power of the State to regulate, derived from its control over, and lawful concern with, the practice of law.

The specific content of the Virginia Decree does not include any prohibition of general discussion by the Brotherhood with its members concerning the dangers of signing Releases too quickly, or the advisability of seeking the services of an attorney in general. These are "protected modes of expression." But the *Brotherhood Case* is not such a case. The Brotherhood, for over thirty years, has followed a course of action which shows beyond doubt that its chief concern in this area is, not to engage in general discussions with its members on these points, but to get the members to take their personal injury claims to the Brotherhood's pre-selected attorneys. The entire thrust of the Brotherhood's efforts, for instance, has related to the F. E. L. A. claims of its members, which claims are almost certain to result in substantial dollar recoveries

for the claimant and substantial fees for the pre-selected Brotherhood attorneys. The Record is barren of any evidence that the Brotherhood's concern for its members' "individual legal welfare" extends beyond these remunerative cases. The Record clearly shows that the Brotherhood's "Legal Aid Plan" was a sham from the start. It never operated as do the worthy Legal Aid Plans sponsored by Bar Associations and Community Charities throughout the United States. Nor is the Brotherhood genuinely concerned that its members obtain competent lawyers, in the general sense, for their F. E. L. A. claims. The Brotherhood, for instance, has shown no interest whatsoever in working with the Bar Associations to establish a system of referrals under the Lawyer Reference Plan, now in effect in most metropolitan centers. Reference under such a Plan would be to an open list of attorneys, generally screened by the Bar Association and found to be competent in their field and in good standing at the bar. The Brotherhood's interest is in its selected lawyers alone.

The State of Virginia was within its rights in prohibiting the Brotherhood's activities. Similar State action has been upheld, as against claims of infringement of Free Speech, in *Dent v. West Virginia*, 129 U. S. 114 (1889); *Semler v. Oregon Board of Dental Examiners*, 294 U. S. 608 (1935); and *Williamson v. Lee Optical of Oklahoma*, 348 U. S. 483 (1955).

The American Bar Association respectfully submits that the Brotherhood has shown no violation of its right of Free Speech. If it were otherwise, the Canons of Professional Ethics could not be applied to the Brotherhood attorneys or to any other attorney working for any organization on a claim of community of interest, regardless of the fact that the community of interest is pecuniary and not social or political. But it is not so. The Virginia Decree law-

fully implements that State's legitimate interest in regulating the practice of law, and does not violate Free Speech.

POINT TWO.

THE VIRGINIA DECREE IS NOT SUBJECT TO OBJECTION ON THE GROUND THAT IT CONTRAVENES THE BROTHERHOOD'S RIGHTS UNDER THE NATIONAL RAILWAY LABOR ACT. THE RAILWAY LABOR ACT PROVISION AS TO "GRIEVANCES" DOES NOT APPLY TO EMPLOYEES' PERSONAL INJURY CASES.

The Brotherhood argues that the Virginia Decree contravenes the National Railway Act. (45 U. S. C. A. Sec. 151-164.) The Brotherhood contends that the Act's Provisions as to "Grievances" apply to employees' personal injury claims and to the Brotherhood's activities with regard to those claims.

The short answer to this is that the Railway Labor Act deals only with the "interpretation and application of existing agreements as to wages, hours of labor, and conditions of service." It has nothing to do with employees' personal injury claims. The Brotherhood can cite no instance where it has actually sought to have an employee treat his personal injury claim in this manner; rather, the Brotherhood has uniformly channeled these remunerative claims to its pre-selected Attorneys. The Brotherhood knows that the Railway Labor Act has nothing to do with personal injury claims but the Brotherhood persists in trying to find some basis on which it can justify its practices.

The Brotherhood first raised the "Railway Labor Act Argument" in the Illinois Brotherhood case in 1957. Your Counsel for the American Bar Association in the present case appeared as Special Counsel for the Chicago Bar Association in that case in 1956-1958. It was a fact that Edward B. Henslee, Sr., who was a witness before the

Special Commissioner of the Supreme Court of Illinois, testified that personal injury claims were not within the grievance procedures established under the Railway Labor Act (Tr. 127, of the Record in Illinois Supreme Court N. R. 751, 1958). In that case, the Brotherhood's Brief nevertheless attempted to raise the "Railway Labor Act Argument." The Supreme Court of Illinois disposed of the matter by stating:

"But these injury and death claims are not the kind of labor disputes that the statute contemplates." *In re Brotherhood of Railway Trainmen*, 13 Ill. 2d at 395, 150 N. E. 2d at 166 (1958).

The Brotherhood did not seek review of that ruling by way of Petition for Certiorari before this Court, yet the Brotherhood now argues that the decision of the Supreme Court of Illinois was in error. This is too transparent to require further rebuttal. The plain fact of the matter is that the National Railway Labor Act has never had anything to do with employees' personal injury claims.

CONCLUSION.

The American Bar Association respectfully submits that the Brotherhood of Railroad Trainmen has not established its contention that the Virginia Decree violates its rights under the Constitution of the United States or under any Federal Statute. To the contrary, the Record in this cause shows that the Virginia Courts are acting within their power to regulate the practice of law, in seeking to prohibit the Brotherhood from putting its organized system for the solicitation of personal injury cases into effect within the State of Virginia.

The American Bar Association supports the position of the Virginia State Bar, that the Writ of Certiorari should be dismissed as having been improvidently granted or that the Decree of the Chancery Court of the City of Richmond, Virginia, should be affirmed.

Respectfully submitted,

FOR THE AMERICAN BAR ASSOCIATION :

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to the
BRIEF OF THE AMERICAN BAR ASSOCIATION,
Amicus Curiae.

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APPENDIX I.
CANONS OF PROFESSIONAL ETHICS
of the
AMERICAN BAR ASSOCIATION.

Canon 27. *Advertising, Direct or Indirect.*

It is unprofessional to solicit professional employment by circulars, advertisements, through touters or by personal communication or interviews not warranted by personal relations. Indirect advertisements for professional employment such as furnishing or inspiring newspaper comments, or procuring his photograph to be published in connection with causes in which the lawyer has been or is engaged or concerning the manner of their conduct, the magnitude of the interest involved, the importance of the lawyer's position, and all other like self-laudation, offend the traditions and lower the tone of our profession and are reprehensible; but the customary use of simple professional cards is not improper.

**Canon 28. *Stirring Up Litigation,
Directly or Through Agents.***

It is unprofessional for a lawyer to volunteer advice to bring a lawsuit, except in rare cases where ties of blood, relationship or trust make it his duty to do so. Stirring up strife and litigation is not only unprofessional, but it is indictable at common law. It is disreputable to hunt up defects in titles or other causes of action and inform thereof in order to be employed to bring suit or collect judgment, or to breed litigation by seeking out those with claims for personal injuries or those having any other grounds of action in order to secure them as clients, or to employ agents or runners for like purposes, or to pay or reward, directly or indirectly, those who bring or influence the bringing of such cases to his office, or to remunerate policemen, court or prison officials, physicians, hospital attaches or others who may succeed, under the guise of giving disinterested friendly advice, in influencing the criminal, the sick and the injured, the ignorant or others to seek his professional services. A duty to the public and to the profession devolves upon every member of the Bar, having knowledge of such practices upon the part of any practitioner, immediately to inform thereof to the end that the offender may be disbarred.

Canon 35. *Intermediaries.*

The professional services of a lawyer should not be controlled or exploited by any lay agency, personal or corporate, which intervenes between client and lawyer. A lawyer's responsibilities and qualifications are individual. He should avoid all relations which direct the performance of his duties by or in the interest of such intermediary. A lawyer's relation to his client should be personal, and the responsibility should be direct to the client. Charitable

societies rendering aid to the indigent are not deemed such intermediaries.

A lawyer may accept employment from any organization, such as an association, club or trade organization, to render legal services in any matter in which the organization, as an entity, is interested, but this employment should not include the rendering of legal services to the members of such an organization in respect to their individual affairs.

Canon 47. Aiding the Unauthorized Practice of Law.

No lawyer shall permit his professional services, or his name, to be used in aid of, or to make possible, the unauthorized practice of law by any lay agency, personal or corporate.

APPENDIX II.
INFORMATIVE OPINION A OF 1950
of the
AMERICAN BAR ASSOCIATION.

Committee on the Unauthorized Practice of Law.

The Committee on Professional Ethics and Grievances has propounded to the Committee on Unauthorized Practice of Law the following questions:

- "I. A corporation employs a lawyer, *on full time*, part of whose functions is to be available to advise and assist its employees, if they desire such assistance, in connection with their personal problems, such as the drawing of wills, deeds or leases for their dwellings, claims against third parties, for injuries to persons or property, etc. This employment is the result of a bona fide desire to preserve and improve the morale of the employees by keeping them out of legal difficulties, similar in principle to the medical services furnished by many corporations. The service is an agreed part of the compensation of the employee, who pays nothing to the attorney for the services rendered.
- II. A labor union employs a lawyer, *on full time*, part of whose duties is to be available to advise and assist its members, if they desire such assistance:
 - (1) in connection with disputes between the employee-member and the corporation under the union contract;
 - (2) in connection with their personal problems, such as the drawing of wills, deed or leases for their dwellings, claims against third parties for injuries to person or property, etc. The by-laws of the union provide that the members shall be entitled to this service, which is paid for out of their dues."

And the Committee on Unauthorized Practice of Law has been requested to give its opinion as to whether the "action by the corporation or the union . . . constitute the unauthorized practice of the law in the several instances specified."

A corporation can neither practice law nor hire lawyers to carry on the business of practicing law for it,^{1a} and whether it is a corporation or a voluntary association operating under a trade name, which employs the lawyers, is unimportant.^{1b}

The right to practice law attaches to the individual and dies with him. It cannot be made the subject of business to be sheltered under the cloak of a corporation^{2a} because the relationship of attorney and client is personal.^{2b} Only a natural person may practice law.³

It is unlawful and against public policy for a corporation to maintain a legal department or hire attorneys and advertise their services for the use of others.³

1a *People ex rel Illinois Bar Association v. Peoples Stock Yards Bank*, 344 Ill. 462, 176 N. E. 901. *People v. California Protective Corporation*, 76 Cal. App. 354, 244 Pac. 1089. In re *Ottérness*, 232 N. W. 318. *Meunier v. Bernich*, 170 So. 567.

1b *Rhode Island Bar Association v. Automobile Service Association*, 55 R. I. 122, 179 Atl. 139, 100 A. L. R. 226.

2a *The People ex rel. Illinois Bar Association v. Peoples Stock Yards Bank*, 344 Ill. 462, 176 N. E. 901. *State v. Merchants' Protective Corp.*, 105 Wash., 12, 177 Pac. 694. *People v. Merchants' Protective Corp.*, 189 Cal. 531, 209 Pac. 363.

2b Canon 35 of the Canons of Professional Ethics of the American Bar Association.

2c *Boykin v. Hopkins*, 174 Ga. 511, 162 S. E. 796. *State ex rel. Lundin v. Merchants Protective Corporation*, 105 Wash. 12, 177 Pac. 694. In re *Morse* 98 Vt. 85, 126 Atl. 550.

3. *Dworken v. Apartment House Owners Assn.*, 38 Ohio App. 265, 176 N. E. 577. *People ex rel. Chicago Bar Assn. v. The Motorists Assn. of Illinois*, 188 N. E. 827. Act 163 of 1940 (La.) Sec. 280 of the Penal Law of N. Y. Laws of 1931, p. 191 (Ga.) *Richmond Association of Credit Men, Inc. v. The Bar Association of the City of Richmond, et al.*, 189 Va. 153.

Automobile clubs organized, among other things, for the purpose of furnishing legal services to its members have been held to be engaged in the practice of law as to such services.⁴

The relationship of attorney and client is that of master and servant in a limited and dignified sense, and it involves the highest trust and confidence. It cannot be delegated without consent, and it cannot exist between an attorney employed by a corporation to practice law for it and a client of the corporation for he would be subject to the directions of the corporation and not to the directions of the client.⁵ There would be neither contract nor privity between him and the client and he would not owe even the duty of counsel to the actual litigant.⁶

A corporation or a lay agency cannot do indirectly that which it cannot do directly.⁷

4. *Goodman v. Motorists Alliance of America, Inc.* Unauthorized Practice Decisions, Brand, page 116; *Dworken v. The Cleveland Automobile Club*, 29 Ohio N.P. (N.S.) 607. Brand, UPD; *The People ex rel the Chicago Bar Association v. The Motorists Association of Illinois*, 354 Ill. 595, 188 N.E. 827, UPD, Brand, p. 209; *Yeats v. Automobile Owners Association of Florida*, 1934, No. 49754-C, Brand, UPD, p. 326; *People ex rel. The Chicago Bar Association v. Chicago Motor Club*, 362 Ill. 50, 199 N.E. 1, Brand, UPD, p. 347; *Rhode Island Bar Assn. v. Automobile Service Assn.*, 55 R.I. 122, 179 Atl. 139, 100 A.L.R. 226, Brand, UPD, p. 354; *In re Macclub of America, Inc.* (1936), 3 N.E. (2d), 105 A.L.R. 1360, Brand, UPD p. 512; *Schuur v. Detroit Automobile Club et al.* (C.C. Wayne County Michigan, 1932), In Chancery No. 194195, Brand, UPD, p. 698.

5. *Rhode Island Bar Assn. v. Automobile Service Assn.*, 55 R.I. 122, 179 Atl. 139, 100 A.L.R. 226. *Richmond Assn. of Credit Men, Inc. et al. v. the Bar Assn. of the City of Richmond*, 189, Va. 153.

6. See cases cited supra under (5).

7. See citations under (4) supra, also informative opinion No. 2 of 1942 from the Committee on Unauthorized Practice of Law to the Committee on Professional Ethics and Grievances. *Richmond Association of Credit Men, Inc. v. The Bar Association of the City of Richmond, et al.*, 189 Va. 153.

An attorney is not an officer of the State in a Constitutional or Statutory sense of that term, but he is an officer of the Court exercising a *privilege* during good behavior. This *privilege* is granted by the Court in the exercise of judicial power, not as a mere ministerial power.⁸

The *right* to practice law is not a *privilege* or *immunity* granted to all citizens of the United States, but is a franchise from the state conferred only for merit, and is not a lawful business except for members of the Bar who have complied with all the conditions required by statute and the rules of Court.⁹

A lawyer may accept employment from any organization, such as an association, club or trade organization, to render legal services in any matter in which the organization, *as an entity*, is interested, but this employment should not include the rendering of legal services to the members of such an organization in respect to their individual affairs.¹⁰

8. In re: Greathouse 189 Minn. 51; 248 N.W. 735 at 737.

9. *Meunier v. Bernick*, 170 So. 567, In re Lockwood 154 U. S. 116, 14 Supr. Ct. 1082, 38 L. Ed. 929. *State v. Rosborough*, 152 La. 945, 94 So. 858. In re Cooperative Law Co. 198 N.Y. 479, 92 N.E. 15. *People ex rel Los Angeles Bar Assn. v. California Protective Corp.*, 76 Cal. App. 354, 244 Pac. 1089. *Dworken v. Apartment House Owners Association*, 38 Ohio App. 265, 176 N.E. 577. *Fitchette v. Taylor*, 191 Minn. 582, 254 N.W. 910.

10. Canon 35 of the Canons of Professional Ethics, American Bar Association, and the following opinions of the Committee on Professional Ethics and Grievances, viz:

Opinion 8—It is improper for a lawyer to accept employment with an automobile club which in soliciting memberships offers certain services of its "Legal Department" to members. (Issued prior to the adoption of Canon 35.)

Opinion 10—A lawyer who is a salaried employee (trust officer of a trust company) may not act as the lawyer for patrons of his employer. (Issued prior to the adoption of Canon 35.)

Opinion 31—A lawyer may not aid a lay corporation which employs him and which is engaged in the business of incorporating

No lawyer shall permit his professional services, or his name, to be used in aid of, or to make possible, the unauthorized practice of law by any lay agency, personal or corporate.¹¹

The professional services of a lawyer should not be controlled or exploited by any lay agency, personal or corporate, which intervenes between client and lawyer.¹² If such were permissible, it would permit the corporation or lay agency to do that which the lawyer could not do; namely, the solicitation of business.¹³

Whether the attorney is paid for his services by the corporation, whether the work for the individual is included in his general corporate retainer, or whether he is paid at all, is unimportant. The fact is that the services, in such cases, are rendered because of the attorney's employment by the corporation, and the vice is that there is a divided allegiance.¹⁴

companies, to practice law by accepting employment from it to do legal work for its patrons.

Opinion 35—A lawyer may not permit his services to be exploited by a collection agency.

Opinion 56—A lawyer may not accept employment from a grange association to handle matters for its members.

Opinion 122—It is improper for a lawyer to cooperate with a trust company or other lay institution to facilitate its unauthorized practice of law.

Opinion 162—It is improper for a lawyer who is counsel for an organization to furnish free legal advice to its members.

Opinion 237—A lawyer representing and paid by an artist representative, may not properly represent the artist with whom he has no direct relations, to draw up the artist's contract of employment by the motion picture company.

11. Canon 47 of the Canons of Ethics of the American Bar Association and Opinion 122 thereunder, viz:

Opinion 122—A lawyer might not, prior to adoption of canon, properly cooperate with a trust company or other lay institution to facilitate its unauthorized practice of law.

12. *Richmond Association of Credit Men, Inc. v. The Bar Association of the City of Richmond, et al.*, 189 Va. 153.

13. See citation under 12 supra.

14. *People v. Peoples Trust Co.*, 167 N. Y. S. 767.

Conclusion.

This Committee is of the opinion that the practices described in the propounded questions hereinabove set forth in full constitute the unauthorized practice of law.

However, whether it is professionally improper for a lawyer to represent an individual member of a corporation or lay agency, at the expense of the latter, where such representation is for the promotion of the common interest of the shareholders of the corporation or members of the lay agency and not merely for the benefit of the individual, as, for example, in a test case,¹⁵ is a matter involving ethics alone, which this committee does not seek to pass upon.¹⁶

STANDING COMMITTEE ON UNAUTHORIZED PRACTICE OF LAW

15. Question II(1) does not clearly set forth this situation.

16. See answer 363 of the Committee on Professional Ethics of the New York County Lawyers' Association.

**REPLY BRIEF
FOR THE
PETITIONER**

AMERICAN BOARD OF NATIONAL DEFENSES
Washington, D. C.

OFFICE OF THE SECRETARY
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By General

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In The
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1963

No. 34.

BROTHERHOOD OF RAILROAD TRAINMEN,
Petitioner,

v.

COMMONWEALTH OF VIRGINIA, ex rel
Virginia State Bar,
Respondent.

REPLY BRIEF FOR PETITIONER

I.

THE QUESTIONS PRESENTED

The paramount questions for the Court are presented in Petitioner's Brief. (PB 2) There, Petitioner raises questions of the right of free expression and communication with its members and rights given to it under Railway Labor Act.

THE MOOT NATURE OF MUCH OF THE EVIDENCE REFERRED TO BY RESPONDENT

Most of the evidence referred to by Respondent is of a moot nature. But since the Respondent has seen fit to

make reference to certain isolated parts of the record to create an unfavorable picture of the operation of the Legal Aid Department, the Petitioner will reply generally and in some instances specifically to Respondent's "restatement" of the case, which covers 37 pages of its brief, consisting of 56 pages.

FIRST UNFAVORABLE PICTURE CREATED BY RESPONDENT

Respondent in its brief (RB 8) infers and leaves the impression that T. J. McGrath, General Counsel of the Brotherhood, at the time of the establishment of the Legal Aid Department, and the selection of Regional Counsel, preferred lawyers who had been engaged in ambulance chasing.

HOW McGRATH SELECTED REGIONAL COUNSEL

The following are excerpts from the annual report of Thomas McGrath, General Counsel, who made the selections of Regional Counsel in 1930. (Plf. Exh. 13, R 786, 787, 788)

Because of the importance of selecting lawyers who, because of their experience, ability and character, were considered to be the best available * * * it was felt that personal investigation by General Counsel should be made in each city where it was intended to locate regional counsel.

* * *

In all the selections above mentioned, except that of

Mr. Frank C. Hanley and Mr. Charles Murphy, the undersigned *went to the cities in which regional counsel live*, and made a thorough investigation of all reputable attorneys; who were recognized as specialists in the handling of railroad damage suits, in each of the cities named. *Information as to the standing and ability of these lawyers was obtained by interviewing, in many instances, local lodge officers, officials of local bar associations, judges of courts and insurance lawyers.*

* * * Messrs. Hanley and Murphy are and have been for many years, members of the Brotherhood and their reputation, standing and ability have been thoroughly known to the Grand Lodge officers for years. * * *

SECOND UNFAVORABLE PICTURE CREATED BY RESPONDENT

Respondent said in its brief (RB 9, 10, 11) that after a decision in the case of Dworkin v. Brotherhood of Railroad Trainmen, Grand Lodge, Petitioner agreed to eliminate certain objectionable practices, but it continued the objectionable practices until April 1, 1959.

The case of Dworkin v. Brotherhood, No. 353,975, Court of Common Pleas, Cuyahoga County, Ohio (1932), involved the giving of opinions by the Legal Aid Department to members and dependents respecting their legal rights, and the support of the Legal Aid Department.

Upon statement of counsel that the Petitioner had discontinued the former method of operating its Legal Aid Department, by consent of both parties, the case was dismissed May 4, 1932.

There is no evidence in the record that Petitioner, after the Dworkin case continued to advise its members legally, or that it received any money for the support of the Legal Aid Department in the *State of Ohio*.

W. P. Kennedy, President of the Brotherhood, testified in reference to the Dworkin case in part: (R 56)

* * * we lived up to the court's rulings, whatever the ruling was. We haven't been in violation of any court's ruling, to my knowledge. * * *

The rules and regulations of Regional Council and the Brotherhood originally provided that members would "be advised as to their legal rights." (Plf. Exh. 5, R 760)

After the Dworkin case, the rules and regulations were changed to comply with it. The pertinent part reads:

"The Brotherhood and its employees shall not undertake to furnish members of the Brotherhood, or their dependents, with any advice or information as to their legal rights. It is to be distinctly understood that all legal opinions, or matters pertaining to the practice of law, shall be obtained through duly licensed lawyers, and that no layman shall be permitted to infringe in any manner upon the rights or privileges of practicing attorneys." (R 839, 840)

The Respondent said (RB 13) in its brief that notwithstanding the "protestation" Petitioner admits in the case at bar the established fee splitting did continue until April 1, 1959. This is intended, of course, to smear the Petitioner and divert the Court's attention from the paramount issues.

THE FIRST APPELLATE COURT'S DECISION RENDERED IN 1932

The first decision construing the plan of the Brotherhood by an intermediate appellate court was^o in 1932 in *Ryan v. Penn. R. Co.*, 268 Ill. App. 364, 373. The Court made a clear distinction between referrals by the Brotherhood to Regional Counsel and unlawful solicitation of legal cases and approved Petitioner's plan.

The opinion in the Illinois Appellate Court was rendered in 1932, while the opinion in *In re: Petition of Committee of Rule 28, Cleveland Bar*, 15 Ohio L.Abs. 106, intermediate Appellate Court, was rendered in 1933.

THIRD UNFAVORABLE PICTURE CREATED BY RESPONDENT.

The Respondent in its brief (RB 12) uses the opinion of *In Re: O'Neill*, 5 F.Supp. 465, to show that it was in conflict with the Ryan case. However, the court in that case directed its attention to the sole question of the contract arrangement with the Brotherhood and O'Neill, and held O'Neill would not be permitted to proceed with the cases he was handling for Brotherhood members, until he had filed an affidavit in each case showing that the contract arrangement with the Petitioner had been rescinded.

The Court said:

As to so much of the union activity this court is prepared to believe that the organization was performing a *valuable service to its members*. (Emphasis supplied)

In effect the court's holding was the same as in the case of In re: Brotherhood of Railroad Trainmen 1958, 13 Ill. (2d) 391.

FOURTH UNFAVORABLE PICTURE CREATED BY RESPONDENT

Respondent in referring to the case of *Young v. GM & O. Rwy. Co.*, (1946) Mo. (RB 12, 13, 14) said in part:

"In his defense Regional Counsel admitted that Petitioner's Legal Aid Plan had operated from its inception until June 15, 1946, as originally set up with all of the objectionable features condemned in prior court decisions (and despite the assurance given in the Dworkin case) and stated that the plan had been brought to an end on June 15, 1946, because criticism by courts, lawyers and bar associations."

The Respondent ignores the decision of the Appellate Court in *Ryan v. Penn. R. Co.*, *supra*, and relies on the Dworkin case, which was dismissed by the lower court.

♦ The Ohio lower court could not have enjoined the Brotherhood from operating in Missouri and New York under its plan, had it so desired. ○

The case of *In re: Petition of Committee on Rule 28 of the Cleveland Bar Association* was against Regional Counsel. In that case the court refused to enjoin Regional Counsel, but in a 2-1 decision it did reprimand him.

Petitioner contends that it has complied in every respect

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with the agreement in the Dworkin case in the *State of Ohio*.

THE ORIGINAL PLAN OF THE BROTHERHOOD WAS DISCONTINUED

On June 15, 1946, the Brotherhood ceased to accept any fee on cases being handled by Regional Counsel in any State of the Union. (Plf. Exh. 21, R 485, 831, 833, 834, 835, 836)

The record is not clear when the plan, which was described in Respondent's Bill of Complaint, came into existence. Certainly it was after June 15, 1946, and before W. P. Kennedy became President of the Brotherhood.

The change in the plan of operating the Legal Aid Department shows that the Brotherhood modified its plan to comply with the opinion of certain courts, lawyers and bar associations.

FIFTH UNFAVORABLE PICTURE CREATED BY RESPONDENT

Respondent says in its brief (RB 14) that in 1948 Regional Counsel Joseph B. McGlynn and others, were enjoined in North Carolina from advertising, soliciting and giving legal advice in that State and from transporting cases out of North Carolina.

The full decree makes no reference to the Brotherhood or the plan of the Legal Aid Department. (R 843) The decree is not pertinent to the issue before the court and should not have been introduced.

II.

THE LEGAL AID DEPARTMENT UNDER PRESIDENT KENNEDY 1949—APRIL 1, 1959

When W. P. Kennedy became President of the Brotherhood in 1949, he began an investigation as to the operation of the Legal Aid Department, because he was not satisfied with certain procedures which he found to exist throughout the United States. (R 47)

Mr. Kennedy said that it took considerable time to ascertain how he could bring about a so-called official clarification of the rights of the Brotherhood in the operation of the Legal Aid Department. He finally came to the conclusion that a considerable amount of so-called legal aid business was handled in the State of Illinois on account of its being a centrally populated state, so he authorized the suit *In re: Brotherhood of Railroad Trainmen in the Supreme Court of Illinois*, in 1955. (R 49)

PRIOR TO THE ILLINOIS CASE THERE WAS ONLY ONE STATE SUPREME COURT CASE

Prior to the Illinois suit in 1955, there was only one Supreme Court case: *Hildebrand v. State Bar of California* (1950), 36 Cal. (2d) 504; which involved directly a Regional Counsel. The case of *Doughty v. Grill* (1952) 37 Tenn. App. 63, 260 SW (2d) 379, an intermediate court, did not directly involve Regional Counsel or the Brotherhood. The Petitioner has heretofore discussed the *Hildebrand* case, so it will discuss only the Tennessee case.

The original bill in the case of *Doughty v. Grill* sought an injunction against the defendants, R. E. Grill and T.

W. Wooten, restraining them from acting as "runners" and solicitors of personal injury cases against railroads on behalf of certain attorneys.

A jury was empaneled to try the issues of fact. To questions propounded the jury answered that neither defendant had solicited or recommended employment to any of the injured persons shown in the proof with respect to the settlement of their claims.

The Chancellor approved the verdict of the jury and dismissed the bill. However, on appeal the intermediate appellate court of Tennessee reversed the lower court and granted the relief sought. The court, however, said at page 94:

The Brotherhood is not a party to this suit, nor is Mr. McGlynn, and we, of course, do not undertake to make an adjudication binding upon them, or either of them, as to whether either or both were engaged in the illegal practice of law. It may be that if pertinent facts, as to which the record is silent were fully developed, a conclusion different from that reached on this aspect of the case would be required. * * *

At the time of the Illinois opinion, that court had before it evidence similar to the evidence introduced in all the cases cited by Respondent. In addition, the court had the benefit of the opinion and decrees in all of the cases, excepting the cases of *State, ex rel Beck* (1960), 170 Neb. 376; *State, ex rel Oklahoma Bar Assoc. v. Brotherhood, et al* (1960), No. 38373, Supreme Court of Oklahoma; *Hulse v. Brotherhood of Railroad Trainmen* (Mo. 1960), 40 SW (2d) 404, in which consent decrees were entered.

Also, the court had briefs from the American Bar Association, Chicago Bar Association, Illinois Bar Association and 27 railroads.

All the consent decrees aforesaid should not have been introduced as evidence, as they have no value as precedents. *Texas & P. R. Co. v. S. Pac. Co.*, 137 U.S. 48, 11 S. Ct. 40; *Freuehauf Trailer Co. v. Gilmore*, 10th Cir. 167 F. (2d) 324, 330.

However, it might be pointed out that the Oklahoma decree incorporated the Illinois opinion by reference and the Missouri decree set out a portion of the opinion of the Illinois court verbatim. (Plf. Exh. 29, 30, R 857, 573).

While the Nebraska consent decree did not specifically refer to the opinion in the Illinois case, it did enjoin and restrain the Brotherhood from doing what the Illinois opinion said the Brotherhood could not do. (Plf. Exh. 28A, R 852).

Respondent refers (RB 25) to the employment of Marko Verbon and called him a Regional Investigator of the Brotherhood and said:

Notwithstanding his appointment as Regional Investigator for the Brotherhood carrying a regular investigator's card signed by President Kennedy, he never made an investigation.

If Marko Verbon's testimony can be believed, he was nothing but a solicitor hired by Interstate Investigation Bureau and worked with one of Petitioner's Regional Counsel. (Nelson Exh. K, R 521, 1067, 1068) Verbon's evidence shows that his duty was to solicit any and every

kind of damage case, whether it pertained to injured Brotherhood members or otherwise. He did not make any investigations of accidents.

C. R. Maher, Chief Clerk of the Legal Aid Department explains that some Regional Investigators were put on the payroll of the Brotherhood in certain instances at the request of Regional Counsel, and charged against the operating expense of the Legal Aid Department. (R 994)

When Verbon first began to work, he was paid by *Interstate Investigation Bureau*. He was not a Regional Investigator (R 1067). He was placed on the Brotherhood's payroll at the request of one Regional Counsel. (January, 1956, R 1068) He received commissions from *Interstate Investigation Bureau*, along with a salary. (R 1068)

Technically, Verbon was on the payroll of the Brotherhood as an Investigator, but he testified that he did not make investigations of accidents. He was purely a solicitor of any and all kinds of accident cases for people who paid him, which was not the Brotherhood, for it was reimbursed. (R 994)

The evidence shows that Verbon's conduct was an abuse of the duties of an Investigator and the plan of the Legal Aid Department. President Kennedy fired Verbon in 1957 upon hearing of his conduct. (R 72, 1068)

DUTIES OF INVESTIGATORS OF THE BROTHERHOOD

Respondent puts all of the Brotherhood Investigators in the class with Verbon, who never investigated a case. However, the record shows that Investigators for the

Brotherhood under the Legal Aid Plan had more important duties to perform, some of which were as follows: (Plf. Exh. 30, R 865)

(1) To gather certain necessary information and statistics on the cause of each accident, the nature and extent of the injuries, and the fault, if any, upon the part of the railroad company, including any apparent violations of the Safety Appliance Act, the Boiler Inspection Act, the Air Brakes Act, the 72-Hour Law and the Hours of Service Law.

(2) To apprise the injured member, or the survivors in the case of death, of the existence of the various departments of the Brotherhood, including Insurance, Legal Aid and Protective Departments as they might relate to the particular circumstances of the casualty involved.

Respondent in its brief (RB 29) states that Petitioner in January, 1959, made a most revealing admission that the Brotherhood itself reimbursed its representatives at their hourly rate of pay, plus expenses, for time involved in bringing injured employees to the office of Regional Counsel.

The explanation of this is that an injured man is insecure and desires some member of his lodge to accompany him to Regional Counsel's office, which is usually situated several hundred miles from the home of the injured member. A fellow worker and a brother member should not be expected to lose time from his work without being reimbursed. (R 270). Members of the Brotherhood are not men of means. Respondent infers that the members are being paid, which, of course, is not true.

The Supreme Court of Virginia, in striking down Chapter 36, Section 18-349.1 to 18-349.37, inclusive, of Code of Virginia, 1950, as amended, in the case of *NAACP v. Harrison*, 202 Va. 142, p. 162, said:

The law has always recognized the right of one to assist the poor in commencing or further prosecuting legal proceedings. * * * Aiding the indigent is one of the generally recognized exceptions to the law of maintenance.

Formerly Regional Counsel reimbursed the member who accompanied the injured man to his office. This was fully discussed *In re: Brotherhood of Railroad Trainmen* (1958) 13 Ill. (2d) 391, and Regional Counsel was prohibited from continuing this practice, but not the Brotherhood.

Respondent also complains of President Kennedy's testimony that Petitioner gives legal advice (RB 48). The president of Petitioner does so state (R 63) but only in the sense, as he explains, that the member is notified as to his legal rights and it is suggested that he confer with a competent and qualified attorney for further handling.

A conflict of loyalty is then conjectured out of pure gossamer but "channelling" is defined as the result of effective group solicitation (RB 49). Of course, Respondent ignores the previous cases cited in Petitioner's Brief dealing with "channelling" and, by so doing, reduces "channelling" to the status of an unnecessary summary of the effects of a plan already subject to condemnation because of its inherent unethical solicitation. Such sophistry is typical of Respondent's Brief. On the other hand, it is clear that the Decree below is drawn in such broad terms as to ef-

fectively preclude the exercise of any constitutional rights of free speech by the Brotherhood, its agents or its members and, indeed, to prohibit any effective exercise of the right to freedom of association by the members of Petitioner.

III.

THE PLAN AFTER APRIL 1, 1959

The President of the Brotherhood testified that after 1960 Regional Investigators were eliminated. (R 69) He further testified that if he wanted a case investigated, he would designate some member or members of a local lodge to investigate the case. He gave these members a signed card designating them as official investigators, in the territory of their particular lodge. (R 130)

Respondent argues that a member of a local lodge, carrying an Investigator's card, *is at all times acting for and in behalf of the Brotherhood*, especially if he calls on an injured brother in the hospital.

As President Kennedy testified, many accident cases are never investigated by any one. (R 66) Therefore, it is the position of the Petitioner, that any local lodge member who carries an Investigator's card is a special agent of the President of the Brotherhood, and if the President should request him to investigate an accident, then the officer has the authority to investigate the accident for the Brotherhood. This authority should not be confused with the Secretary of lodges, whose duty it is to report accidents under the Constitution to the Brotherhood.

VIOLATIONS OF STATE DECREES WOULD NOT DENY PETITIONER ITS CONSTITUTIONAL RIGHTS OR ITS RIGHTS UNDER THE RAILWAY LABOR ACT

The Respondent argues on pp. 34, 35, 36, 37, 38, 39, 40 and 41 of its brief that "solicitation continues according to the original plan after April 1, 1959" by representatives of the Brotherhood.

The position of the Petitioner is that it is in compliance with the Illinois opinion, and is not breaking any state law. (R 51, 52, 57, 58, 59, 60, 129, 130, 131) If this is not true, then Petitioner should be cited for contempt of court in those states which have entered decrees. However, violations of state decrees would not deny Petitioner its constitutional rights or its rights under the Railway Labor Act.

If Legal Counsel of the Brotherhood is violating any court decree or violating any statute, rule or canon of ethics of his profession, then disciplinary action should be taken against him by local authorities.

The Illinois opinion prohibited the Brotherhood from operating the Department of Legal Counsel as it had been operating prior to July 1, 1959. It did not, as Respondent argues, prohibit Legal Counsel who might have been in arrears of his indebtedness to the Brotherhood prior to July 1, 1959, from paying the Brotherhood. (R 720, 721)

Legal Counsel at the time of the Illinois case, paid the Legal Aid Department for its operating expenses, after the expenses had been calculated at the end of the calendar year. (R 703)

For example: Expenses incurred by the Brotherhood were paid for the year 1958 in 1959, and for the year 1959 in 1960. That is why the records of the Brotherhood show that Legal Counsel paid the following accounts: (R 1322, 1323)

Refund from Regional Counsel (for Investigators and office expenses):

| 1957 | 1958 | 1959 | 1960 |
|--------------|--------------|--------------|--------------|
| \$203,423.28 | \$156,902.27 | \$158,080.06 | \$ 23,410.31 |

Mr. John Orpin, General Auditor testified there were no receipts from the Department of Legal Aid for 1961. (R 692, 695)

EVIDENCE INTRODUCED BY RESPONDENT WHICH SHOULD NOT HAVE BEEN CONSIDERED

The Respondent said (RB 40) in its brief that Tom Lewis, Jr., Regional Counsel, of Atlanta, Georgia, appeared at the home of the widow of Jim Doyle Queen, a trainman, and solicited her case. The Respondent relies on the testimony of Betty Ann Queen (Doag), widow, who was secured by a representative of the Association of American Railroads, for Respondent.

The witness testified in a prior case (*Ga. v. B. G. Byington*) diametrically opposite to the testimony given in the case at bar. R 555, 1349, Plf. Exh. A, R 1325)

The following exhibit of Respondent should not have been introduced in evidence or received in evidence:

The case of *Georgia v. B. G. Byington* (R 714, 715, Plf. Exh. A, R 1325) should not have been introduced or received in evidence. It was a criminal case, not involving the Brotherhood and has been reversed by the Supreme Court of Georgia, 218 Ga. 440, 128 SE (2d) 329.

In reversing the courts below, the State Supreme Court said:

"The indictment charged the defendant with no violation of a public law. The holding of the court of appeals to the contrary and the defendant's conviction are accordingly reversed."

A further side light on the *Byington* case demonstrates why the Brotherhood was compelled to establish the Legal Aid Department to protect its members.

Byington, a long time employee of the Central of Georgia Railroad, was fired by it and charged with "trying to prevent or discourage employees of the (railroad) from making settlement claims involving personal injuries * * *". See: *Brotherhood of Trainmen & B. Grady Byington v. Central of Georgia Railroad*, 305 F.(2d) 605. In the suit to reinstate Byington, the court said, in part, that a railroad is not free to frustrate and undermine the effectiveness of bargaining representative of employees by securing Byington's discharge. (Railway Labor Act, Sec. 3, subdiv. 1(1) as amended, 45 U.S.C.A., Sec. 153, sub. 1(1).

The case was affirmed in part and remanded in part.

A further reason why the Respondent should not have introduced Plaintiff's Exhibit A is:

The general rule is that a judgment to be evidence against a party in another suit upon a different cause of action, it must be rendered in a proceeding between the same parties or their privies, and the point must be involved in both cases and must have been determined upon its merits. *Fishburne v. Engledove*, 91 Va. 548, 22 S.E. 354; *Richmond v. Sitterding*, 101 Va. 354.

IV.

RESPONDENT ALLEGES PETITIONER VIOLATED PROHIBITIONS OF ILLINOIS CASE.

Respondent alleges in its brief (RB 34-40) that the Petitioner violated certain prohibitions in the Illinois opinion, and listed the names of certain injured members involved therein.

Petitioner shall summarize the testimony of some of the witnesses for the purpose of showing the true picture.

The evidence shows that when a member was injured, some members of his lodge, known to the member, usually called on him and during the conversation recommended legal counsel. The injured member could employ any lawyer he desired. (R 63, 164, 187, Plf. Exh. 5, R 760, 839, 840)

WITNESSES INTRODUCED BY RESPONDENT

CHARLES WILSON CLARK, Philadelphia, Pennsylvania, testified that he was injured for a second time in 1959, and further that Regional Counsel (Henslee) had represented him when he was first injured; therefore, he

communicated with Mr. E. B. Henslee, Jr., Regional Counsel, son of the E. B. Henslee, Sr., deceased, former regional Counsel. (R 253, 254)

ELMO S. LOMAN, Newark, California, testified that he went to the Brotherhood office after being injured and while there talked with the local chairman, Stanly Rider, who asked Loman if it would be all right if he (Rider) sent some one to see him about his injuries. In response to this conversation, a representative from Regional Counsel went to see Loman. (R 298, 299)

LAWRENCE EDWARD TROXTELL, testified that he called George P. Rummell, who was local griever of his local lodge and later Mr. Rummell went with him to see Mr. Harrington of Henslee and Henslee, Legal Counsel. (R 347) And he further testified that he had sent a letter to the Department of Legal Counsel, Cleveland, and requested it to assist him. (R 365)

Respondent says in its brief (RB 40) that Kenneth Gibson, James Garwood, of New York, and Charles Clark, of Philadelphia, all gave written statements that they had been solicited. Likewise other statements of witnesses were taken by the Association of American Railroads, and were in most instances contradicted by the witnesses when testifying.

Respondent under Section 8-293 of the Virginia Code of 1950, could not have legally introduced the written statements of its witnesses to contradict and impeach them, without complying with the statutory section above; which it did not do.

V.

THE COURT HAS JURISDICTION

The Respondent asserts in its brief (RB 43) that the questions presented by Petitioner and the subsidiary questions set forth no controversy.

The Chancery Court decree enjoined Petitioner, its officers, agents, servants, and employees and its members acting in its behalf, among other things: (R 27)

(1) from holding out lawyers selected by it as the only approved lawyers to aid the members or their families; * * *

(2) or in any other manner soliciting or encouraging such legal employment of the selected lawyers; * * *

(3) and from doing any act or combination of acts, and from formulating and putting into practice, *any plan*, pattern or design, the result of which is to channel legal employment to any particular lawyer or group of lawyers.

Therefore, Petitioner, contrary to what Respondent says, has been enjoined from holding out or telling its injured members of "Legal Counsel" who has been selected and approved by the Brotherhood as being competent to handle claims of injured and deceased members.

The Petitioner asserts that the decree of the lower court denies it and its members rights under the Federal Constitution, and Railway Labor Act.

Respondent's contention that this court is without jurisdiction to review the instant case, based on its conten-

tion that there is no question in issue, is contrary to the plain wording of the Decree entered below (R. 25-28). In that Decree, the court finds that Petitioner still adheres to the pattern and design of its plan as formulated and implemented in 1930 (R. 27). It is in this context that the court enjoins the Petitioner and its agents and members from 1) informing any lawyer that an accident has occurred or from furnishing the name and address of an injured or deceased member for the purpose of obtaining legal employment for such lawyer and 2) from doing any act, or combination of acts, or from formulating any other plan, pattern or design, the result of which is to "channel" legal employment to any particular lawyer or group of lawyers. Such Decree prohibits the Petitioner from any effective advocacy to its members 1) of the advisability of obtaining legal advice before making settlement of their claims and 2) of the recommendation of particular attorneys to handle such claims.

It is said that the common law processes relating to barratry, champerty and maintenance are the basis of the Decree below. If such is the case, the Decree below is basically erroneous since it is well established that malicious intent is essential to such common law offenses. *NAACP vs. Button*, 371 U.S. 415, 9 L.Ed. 2d 405, 422 (1963).

Petitioner prints in the appendix hereof the opinion of the Chancellor in the case of *Commonwealth of Virginia, ex-rel. Va. State Bar v. National Association for the Advancement of Colored People, etc., et al*, dated June 28, 1963, which gives the thinking of the lower court on the case of *NAACP v. Button*, 371 U.S. 415, and in addition "or by any other group."

THE RESPONDENT IGNORES PETITIONER'S CONSTITUTIONAL RIGHTS

The Respondent asserts (RE 46) that it "rests its case * * * upon the traditional prohibitions of the common law, the rules of the Supreme Court of Appeals of Virginia defining the practice of law and the canons of professional ethics adopted therein, and the statutes collateral thereto then and now in force and effect."

The Respondent further says (RE 47) that "the Button case appears to rest in 'the vital fact' that the Court viewed the practices thereunder consideration as a constitutionally privileged 'form of political expression' to secure constitutional civil rights. In the case at bar the civil action for personal injury is clearly not 'a form of political expression.'"

The right asserted by the Petitioner is one of "free expression" or "communication" for the sole purpose of telling injured members to consult with attorneys before settling their cases, and to employ attorneys, if necessary, who have been successful in handling cases under the F.E.L.A., and Safety Appliance Act.

The Supreme Court of Virginia said in *NAACP v. Harrison*, 202 Va. 142, at p. 165:

(a) the appellants and those associated with them may not be prohibited from acquainting persons with what they believe to be their legal rights and advising them to assert their rights by commencing or further prosecuting a suit against the Commonwealth of Virginia, any department, agency or political subdivision thereof, or any person acting as an officer

or employee of such, but in so advising persons to commence or further prosecute such suits, the appellants, or those associated with them, shall not solicit legal business for their attorneys or any particular attorneys; and * * *

One of the reasons why Petitioner began informing its members and families of deceased members to consult legal counsel was to prevent fraud from being perpetrated upon its members and families of deceased members, who have claims under the F.E.L.A. and other statutes. (R 938) See: *Ryan v. Penn.*, 268 Ill. App. 364, 373; *In re: Brotherhood of Railroad Trainmen*, 13 Ill. (2d) 391; *In re: Heirich*, 10 Ill. (2d) 357, 140 N.E. (2d) 825 (1957)

MOST STATES OF THE UNION HAVE SIMILAR RULES GOVERNING THE ETHICAL PRACTICE OF LAW

The American Bar Association said that most States and Local Bar Associations of the United States have adopted Canons of Ethics of the ABA and that the Canons have served as the basis for the Rules of Court, adopted by the Supreme Court of many States, particularly in those States having integrated Bar Associations, and further said that the principles set forth in the Canons derive in part from early statutes and those principles are today part of the statutory law of many States. (ABA B3)

The Illinois Supreme Court said *In re: Brotherhood of Railroad Trainmen* that the objectives of the Brotherhood asserted therein could be accomplished without lowering the standards of the legal profession in that State. Thus, the objectives of the Petitioner herein could be accomplished

without lowering the standards of the legal profession in Virginia, for the objectives are not in conflict with the prohibitions of common law, Rules of the Supreme Court of Appeals of Virginia, defining the practice of law, or the Canons of Professional Ethics adopted by it. 171 Va. pp. XXII, XXXIII, XXXV (1938): PB 6, footnote 15, PB 32,

VI.

DIFFERENCE BETWEEN ARGUMENTS OF RESPONDENT AND AMERICAN BAR ASSOCIATION

The Brief Amicus Curiae, by the American Bar Association, is completely dissimilar from that filed on behalf of the State Bar. That organization correctly perceives the conflict between the parties. That organization, while supporting the Virginia State Bar in its conclusion, neither argues nor contends that there is no question in dispute between the parties. The Amicus correctly sees the heart of the case is the exercise of free speech by the members of the Petitioner (Brief Amicus p. 20). It is submitted, however, that the ABA Brief fails to deal specifically with any of the incidents of the constitutional right of free speech and does not even mention the constitutional right of freedom of association.

Its Brief consists of neither sense nor sensibility, nor sensitivity to the rights of injured working men or to the widows of deceased working men killed in the annual carnage on the nation's railroads. Its answer to all of such social problems is to sneer and to question the motives of Petitioner. The assertion of the American Bar Association that the Brotherhood has a protected mode of "expression" so long as it keeps its interest in the claims of its injured

and deceased members general and non-specific, but that when it acts in a particular case it has withdrawn from the area of a "protected mode of expression" is hopelessly without merit. The constitutional rights of the members of the Brotherhood to associate together and through the exercise of free speech to strenuously advocate the prompt exercise of legal rights granted by Congress in the Federal Employers' Liability Act is a right for the here and now. It is not to be reduced to a right of theoretical and speculative value in order that the American Bar Association can say that it is protecting the right of the lawyer to be as objective as possible in handling the case (Brief Amicus p. 11). This is said to be the reason for the rules against solicitation and this is said to be sufficient reason why members of the Trainmen should be subjected to the Claim Agent's deceit as well as to the deprivation of their livelihood without redress.

The remedy for the abuses suffered by the Trainmen is said to be disbarment proceedings against ambulance chasing attorneys, and the remedy against Claim Agents is said to be to file complaints in the event of over-reaching (Brief Amicus p. 20). No remedy is suggested for the injured employee coerced into a position where he does not assert his legal rights. No attempt is made to establish that the punishment of an attorney or of a Claim Agent will result in the employee receiving compensation for the injury he has suffered. The American Bar Association, and the State Bar of Virginia, would prohibit any effective assertion of the injured employee's rights in the here and now and, instead, suggests he engage in a campaign of vengeance against those who deceive and over-reach him. Those associations imply that this should satisfy his demands for the rights which Congress intended he should have.

Moreover, this desire of the Amicus that lawyers apply their skill in as objective a manner as possible is a unique reason for the prohibition against unethical solicitation. Drinker, in his work on *Legal Ethics*, (Col. U. Press, 1959, p. 210) states that the rules against solicitation and advertising grew out of the fact that those practicing law in England were wealthy and did not have to worry about earning their keep. The growth of the rules is said, by Drinker, to have been caused by the desire of lawyers for the good opinion of their fellow lawyers (p. 211). Drinker also gives other common reasons ascribed to the reason for the rules (p. 212). Until the ABA Brief no one considered that a lawyer had to be as objective as possible in order to comply with the rules against solicitation.

Whatever the reason for the origin of the canons, it is submitted that cooperative activity by the members of the labor organizations representing the operating employees on the nation's railroads is essential to make the rights granted by the Federal Employers' Liability Act meaningful. Moreover, the rights here asserted are not limited to the injuries sustained by employees covered by the Federal Employers' Liability Act. Those rights are equally essential to union members covered by the various Workmen's Compensation Acts. A study has shown that industrial accident and unemployment compensation cases occupy more than half the labor lawyers in the United States, *Labor Union Lawyers; Professional Services of Lawyers to Organized Labor*, 5 *Ind. & Lab. Rel. Rev.*, 343, 361 (1952). This reliance by union members on the lawyers for their labor unions is traditional. It had grown out of a feeling by the early militant labor union organizers of distrust of lawyers. To all of the militant union members

of the last century, and of the early part of this century, the lawyer was the representative of vested interests and the procurer of the hated labor injunction. This feeling persists today. See, *Labor Union Lawyers; Professional Services of Lawyers to Organized Labor*, 5 *Ind. & Lab. Rel. Rev.*, 343, 358 (1952). Because of this hostility, the only effective way to see that union members obtain legal advice is to permit group referral to union lawyers. This is the basis of Petitioner's plan despite Respondent's contention that the Brotherhood established the plan for pecuniary gain (RB 49), even in defining that "pecuniary gain" as the type of gain resulting from the creation of an inducing cause for Trainmen to join the Brotherhood (RB 49). This is especially so when the rights asserted by Petitioner are such basic rights as the right to freedom of speech, and the right to freedom of association. Those fundamental rights permit the Brotherhood to advocate the employment of those lawyers in whom the Brotherhood has confidence.

Amicus contends that there is no lack of competition by competent counsel for such cases (p. 19). This statement by *Amicus* is pure assertion. It is true only in the sense that competent counsel are available in the cases involving serious injuries. Those employees suffering lesser injuries are required to have their cases handled by union lawyers or by union officers. The cases handled by the union officers are, of course, extremely minor cases and the policy of the Brotherhood has been that such cases may be settled for time lost after negotiations by the union committeeman (R 757, 758). However, Respondent contends that the courts have inherent power to control the legal profession. There is probably some such power in the courts but the extent of that power is irrelevant here since Respondent

is seeking to control the activities of a labor union which is not subject to any such inherent power. See, *Control of the Unauthorized Practice of Law; Scope of Inherent Judicial Power*, 28 U. of Chi. L. Rev. 162. Even if such inherent power did exist, it cannot override Petitioner's constitutional rights; especially is this true where there is no clear and present danger of a great evil. The only evil claimed by Respondent is an assumed loss of income to Virginia lawyers and an assumed concentration of service in the hands of fewer lawyers. See, *Drinker, Legal Ethics*, Col. U. Press, (1953 p. 167). Such claims do not merit the disregard of constitutional rights.

In considering the effect of the Railway Labor Act on the rights claimed here, Respondent again seems to assert an inherent right of the courts of Virginia to limit the rights of labor unions specifically granted by federal statutes. Next, Respondent having disregarded the Illinois decision throughout suddenly seizes upon a paragraph therein which rejects the applicability of the Railway Labor Act. Petitioner was willing to settle the instant case on the basis of the Illinois decision but such Consent Decree was rejected by Respondent. Since the Illinois decision could not be the basis of any agreement, Petitioner is not bound to adhere to a part thereof which it considers clearly erroneous. Respondent is even more erroneous when it attempts to rely on the 1926 hearings of the Railway Labor Act because the provisions here relied on, by Petitioner, were first enacted into the Railway Labor Act in 1934.

Finally, Respondent contends that Petitioner lacks good faith. This is a surprising comment coming from the

Respondent. Many cases have been brought against the Brotherhood involving its Legal Aid Plan. Consent Decrees have been urged on the basis that they would not be harmful since the Brotherhood was not engaged in the activities enjoined by consent. But the later proceedings relied on relief granted in prior proceedings and attempted to build thereon. Some of the cases criticising the Brotherhood relied on extremely attenuated grounds and the reversal of prior precedent in order to reach such result. Through all these proceedings, Petitioner attempted to arrive at an accommodation with the Bar. But apparently, no such accommodation was desired by the Bar. Instead, the Bar sought a more restrictive injunction than the Illinois opinion suggested. When these facts are considered, it is apparent that the absence of good faith is present on the side of the Respondent rather than on the side of the Petitioner in this case.

CONCLUSION

For the reasons adverted to above, and as set out in the Brief for Petitioner, it is respectfully submitted that the judgment below should be reversed.

Respectfully submitted,

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A Separate Certificate is being made by counsel for the
Petitioner, showing that three copies of this brief have
been delivered to counsel for the Virginia State Bar.

BEECHER E. STALLARD
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APPENDIX

VIRGINIA:

IN THE CHANCERY COURT OF THE CITY OF RICHMOND:

Commonwealth of Virginia,
ex. rel. Virginia State Bar,

vs

National Association for the
Advancement of Colored People, etc., et al.

Memo Opinion upon Motion to Dismiss,
dated June 28, 1963.

This suit in equity was instituted by the Commonwealth of Virginia at the relation of the Virginia State Bar, an administrative agency created by the General Assembly in 1938 "for the purpose of investigating and reporting the violation of such rules and regulations as are adopted by the Supreme Court of Appeals under this act to a court of competent jurisdiction for such proceedings as may be necessary"; Acts of 1938, ch. 410, page 771.

The defendants are National Association for the Advancement of Colored People (a corporation generally referred to as NAACP, and, for brevity, so called in this opinion), and two of its affiliated organizations; one, the Legal and Defense Fund, Inc., a corporation, and the other, the Virginia State Conference of Branches, an unincorporated association.

The bill of complaint alleges that the defendants, acting together and in concert, are engaged in the unauthorized

practice of law in Virginia in that, among other practices and methods, they maintain absolute and complete dominion and control over litigation, to which none of the three is a party, through lawyers selected and paid by them, thus acting as lay agencies of "intermediaries".

The defendants filed answers in due course.

Except for a stipulation heretofore filed no evidence has been formally adduced and made a part of the record, though there have been numerous interrogatories and calls for the production of documents, many responses to which have been informally lodged with the court papers. The complainant has not rested.

This was the posture of the case when the United States Supreme Court on January 14, 1963, handed down its decision in "the Button case": *National Association for the Advancement of Colored People v. Robert Y. Button, Attorney General of Virginia, ET. AL.*, 371 U. S. 415; 9 L. ed. 2d 405.

Apparently influenced by the supposed impact of this decision the attorneys for the defendants in the instant case, after previous notice of their intent, moved this court to dismiss this case. This motion in writing was presented to the court on April 11, 1963, and then set down for argument on June 3, 1963. These dates are mentioned because the record shows that the motion was formally filed by court order entered on June 3, 1963, and it might be thought that the motion was heard without opportunity for preparation, argument and deliberation. The contrary is the fact. Ample time and opportunity was afforded,—and was availed of by industrious and able counsel on both sides. The argument that began on June 3, 1963, occupied

a day and a half: The court is indebted to counsel for this thorough and lucid presentation.

Counsel are in accord with the court that this motion is equivalent to a demurrer, the allegations of the bill being, for the purposes of this motion, taken as true. The motion has been referred to as "a belated demurrer,"—belated, because normally demurrers are filed and disposed of before answers are filed. Though somewhat unusual in our chancery practice this procedure has received the recent approval of our Supreme Court of Appeals; *NAACP v. Committee*, 201 Va. 890, 900, 901.

The court is of opinion that, if the evidence to be adduced sustains the allegations of the bill of complaint, either directly or by the proof of facts from which fair inferences may be drawn, then the defendants must be held to be engaged in the unauthorized practice of law, as defined by the appropriate authorities of the Commonwealth of Virginia; and they have adopted and employ methods of operation that are in violation of the settled policy of this State,—a policy that is clearly and definitely established, without ambiguity and without vagueness.

The scope of the case and the relief sought are in narrow compass. The suggestion at bar in the course of the argument that this litigation is designed to harass the defendants and to thwart them in their aims and objectives is without foundation. It is not the aims and objectives of the defendants that are here under attack. This suit is directed only against certain alleged methods and practices of the defendants that constitute the unauthorized practice of law in this State,—simply that, and nothing more.

No case has been called to my attention, and I am aware of none, that has denied the power of a state to define and regulate the practice of law within her borders.

Does *the Button case* announce a denial of this power? It does not. On the contrary, there is embodied in the majority opinion itself, to say nothing of the four (or three, if you please) dissenting opinions, the clearest implication that this power exists, and is recognized. The following is quoted *from the majority opinion*:

"In the first place, *upon a record devoid of any evidence of interference by the NAACP in the actual conduct of litigation*, * * * the court", that is, the Supreme Court of Appeals of Virginia, "nevertheless held * * * etc."

The italics are supplied to denote the present emphasis.

So that holding of the United States Supreme Court was in that respect based upon lack of evidence in the record in that case,—with an implication that the decision *would have been different had the evidence been different.*

It is not incumbent upon this court at this time,—if, indeed, it will ever be—to examine the record in *the Button case* as respect *facts*. It will eventually be the duty of this court to examine and weigh the evidence that may be adduced in this case at some future time. The evidence has not yet been adduced.

It should be such a truism as need not be expressed that this court, and all other courts, are bound by the principles of law announced by the Supreme Court of the United States within the scope of their adjudications. But the

examination and weighing of evidence is a matter of looking to the record in the particular case; and there cannot possibly be a binding precedent in this respect,—for the simple reason that one record differs from another.

Some courts have obviously been greatly impressed with the magnitude and importance of the objectives of the defendant organizations, and have given wide scope to their activities as warranted under the First Amendment freedoms. But no court, to my knowledge, has said that the ends sought justify any means that may be adopted by these organizations, or by any other groups.

The nearest thing I have encountered in legal literature to advocacy of the adoption as a tenet of the law of the dogma that "the end justifies the means", is the concluding sentence quoted in footnote 26 to the majority opinion in the *Button case*. This quotation is from Opinion 148, American Bar Association Committee on Professional Ethics and Grievances, 1947. The concluding sentence there quoted reads:

"These issues transcend the range of professional ethics."

A conviction that the integrity of the code of professional ethics, binding upon both the bench and the bar, must be preserved though the heavens fall; compels me to express disagreement with the pronouncement quoted.

That a majority of the Justices of the highest court in the land are in accord with this quoted pronouncement, in its express words and in its implications, passes belief. In fact only four of them unite in the opinion to which footnote 26 is appended. And I venture to express the hope

that an opportunity may soon be presented for assurance to be given that "the veil of the temple is not to be rent in twain from the top to the bottom."

This opinion should not conclude without reiteration of the posture of the cause in the present state of the record. This is a decision as upon a demurrer. The allegations of the bill are, at this time and for this purpose, accepted as true.

Also it should be said that the emphasis put upon the alleged control of litigation by a lay intermediary carries no implication that the evidence may not disclose other elements of the unauthorized practice of law sufficiently alleged to allow evidence in support. The minute description of one gate in a wall carries no intimation that there are no other gates. One set of facts alleged, if proved, would justify the granting of the relief sought, and require that the motion to dismiss be overruled. It is the settled practice of courts—a commendable practice—to decide no more than is necessary to support the judgment.

An order overruling the motion to dismiss may be presented for entry, saving all objections and exceptions. This order will make this opinion a part of the record.

BROCKENBROUGH LAMB

Richmond, Virginia,
June 28, 1963.

Office-Supreme Court, U.S.

FILED

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SUPREME COURT, U. S.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1963.

No. 34

BROTHERHOOD OF RAILROAD TRAINMEN,
Petitioner,

vs.

**COMMONWEALTH OF VIRGINIA, ex rel. VIRGINIA
STATE BAR,**
Respondent.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF APPEALS OF
THE COMMONWEALTH OF VIRGINIA.

PROCEEDINGS RELATIVE TO PETITION FOR REHEARING BY THE
COMMONWEALTH OF VIRGINIA EX REL. VIRGINIA STATE BAR.

**MOTION OF AMERICAN BAR ASSOCIATION FOR
LEAVE TO FILE AMICUS CURIAE BRIEF IN
SUPPORT OF PETITION FOR REHEARING BY
VIRGINIA STATE BAR.**

FOR THE AMERICAN BAR ASSOCIATION:
WAYLAND B. CEDARQUIST, Chicago, Illinois,
Of Counsel for This Cause.

REHEARING ALSO URGED BY
FORTY-FIVE STATE BAR ASSOCIATIONS AND
FOUR LOCAL BAR ASSOCIATIONS,
LISTED IN MOTION.

IN THE
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The American Bar Association respectfully moves this Court pursuant to provisions of Rule 42 (Briefs of *Amicus Curiae*) of the Rules of the Supreme Court of the United States, that Leave be granted to the American Bar Association to file an *Amicus Curiae* Brief in support of the Petition for Rehearing being filed by Commonwealth of Virginia ex rel. Virginia State Bar.

The American Bar Association states that on May 13, 1964, a Stipulation was entered into by the Commonwealth

of Virginia ex rel. Virginia State Bar, stipulating and consenting to the filing of an *Amicus Curiae* Brief by the American Bar Association, in support of the Petition for Rehearing. That Stipulation is being filed on the date of the filing of this Motion.

The American Bar Association further states that the Brotherhood of Railroad Trainmen, Petitioner, by Beecher Stallard, one of its Attorneys, has refused to consent to the filing of an Amicus Curiae Brief by the American Bar Association in support of Rehearing. The Brotherhood, although refusing its consent, has stated that it will not oppose a Motion for Leave to File the Amicus Brief. The American Bar Association is therefore proceeding pursuant to Rule 42, and asks Leave of Court to file an Amicus Curiae Brief in support of Rehearing.

THE INTEREST OF THE AMERICAN BAR ASSOCIATION.

The interest of the American Bar Association in this Proceeding was set forth in the original *Amicus Curiae* Brief filed by the Association on November 29, 1963. It was there pointed out, at pages 3-4, that the American Bar Association, with over 114,000 members throughout the United States, is concerned that the Legal Profession serve the Public and that it retain those characteristics which make it a Profession, namely, ethical standards of conduct with regard to the duty of a lawyer to the Court, to his client, to his fellow lawyers and to the public. The American Bar Association is concerned that these matters be presented to this Court, free of local or partisan considerations, by the one national bar association in the United States.

This Court handed down its Decision on April 20, 1964. That Decision, in the considered judgment of the American Bar Association, does severe damage to the Canons of Pro-

Professional Ethics and to the Rules of Law prohibiting the Unauthorized Practice of Law. The American Bar Association is, therefore, deeply concerned that Rehearing be granted; and that on such Rehearing, certain matters be thoroughly re-argued.

THE INTEREST OF STATE AND LOCAL BAR ASSOCIATION.

The American Bar Association, because of its interest and concern, communicated at once with all the major State and Local Bar Associations in the United States, asking whether they would consent to the use of their names in support of a request for Rehearing.

Forty-five State Bar Associations* and Four Major Local Bar Associations have replied, stating that they join with the American Bar Association in urging that the Court grant Rehearing.

Alabama State Bar
 Alaska Bar Association
 State Bar of Arizona
 Arkansas Bar Association
 State Bar of California
 Connecticut Bar Association
 Delaware State Bar Association
 The Florida Bar
 Georgia Bar Association
 Bar Association of Hawaii
 Idaho State Bar
 Illinois State Bar Association
 The Indiana State Bar Association
 The Iowa State Bar Association
 The Bar Association of the State of Kansas

*The Maine State Bar added its consent by telephone on May 12, 1964.

Kentucky State Bar Association

Louisiana State Bar Association

Maryland State Bar Association

Massachusetts Bar Association

State Bar of Michigan

Minnesota State Bar

The Missouri Bar *Adm Advisory Comm*

Montana Bar Association

Nebraska State Bar

State Bar of Nevada

Bar Association of the State of New Hampshire

New Jersey State Bar

State Bar of New Mexico

New York State Bar Association

The North Carolina State Bar

State Bar Association of North Dakota

Ohio State Bar Association

Oklahoma Bar Association

Oregon State Bar

Pennsylvania Bar Association

Rhode Island Bar Association

South Carolina Bar Association

The State Bar of South Dakota

Tennessee Bar Association

State Bar of Texas

Vermont Bar Association

The West Virginia State Bar

State Bar of Wisconsin

Wyoming State Bar

Association of the Bar of the City of New York

New York County Lawyers Association

Chicago Bar Association

The Bar Association of District of Columbia

It is respectfully submitted that the foregoing response to the Decision of this Court is significant and unprecedented. It is further submitted that the foregoing is not only an expression of the greatest concern over the Decision; but also a request that the Organized Bar as a whole be afforded an opportunity to present its views to this Court, on Rehearing.

It is not proposed that all the State and Local Bar Associations become parties *Amicus Curiae* in this case. The foregoing is set forth solely to bring to this Court's attention the fact that there is almost unanimous and unprecedented concern over this Decision.

If Rehearing is granted, and if the American Bar Association is permitted to participate as *Amicus Curiae*, it should be readily possible to work out adequate communication with the State and Local Bar Associations so that their views, instead of being presented separately, can be presented on their behalf by the American Bar Association.

REASONS FOR FILING OF AMICUS BRIEF.

The American Bar Association respectfully submits herewith its printed *Amicus* Brief, setting forth the reasons for Rehearing. The American Bar Association asks Leave of Court to file that Brief instantler for the reason that, as is therein discussed, this Court did not have the benefit of several crucial matters when this cause was presented.

The American Bar Association argues in its Brief that the Majority Opinion in this case severely and unnecessarily damages the Canons of Ethics and the Rules of Law prohibiting the Unauthorized Practice of Law. The Association points out specifically that this damage can be avoided, on Rehearing, by consideration of an alternative plan, which would protect the rights of Brotherhood

Trainmen without damaging the Ethics of the Legal Profession. These matters have not been urged by any other party to this cause. The American Bar Association is in a uniquely capable position to present these crucial matters to this Court.

CONCLUSION.

The American Bar Association therefore respectfully asks Leave of Court to file its *Amicus Curiae* Brief in support of the Petition for Rehearing, being filed by the Commonwealth of Virginia ex rel. Virginia State Bar. The American Bar Association most earnestly hopes that this Court will afford it the opportunity to be of service in this matter, on issues so vital to the Legal Profession.

Respectfully submitted,

FOR THE AMERICAN BAR ASSOCIATION:
WAYLAND B. CEDARQUIST, Chicago, Illinois,
Of Counsel for This Cause.

WAYLAND B. CEDARQUIST,
Suite 3000, 33 North LaSalle Street,
Chicago 2, Illinois.

Dated: May 11, 1964.

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Office: Supreme Court, U.S.

FILED

MAY 15 1964

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**In The
SUPREME COURT OF THE UNITED STATES**

October Term, 1963

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BROTHERHOOD OF RAILROAD TRAINMEN,
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VIRGINIA STATE BAR,**
Respondent.

**ON WRIT OF CERTIORARI TO
THE SUPREME COURT OF APPEALS OF VIRGINIA**

PETITION FOR REHEARING

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Richmond, Virginia 23219

Attorneys for the Respondent

ABBREVIATIONS

PB—Petitioner's Brief

PRB—Petitioner's Reply Brief

RBO—Respondent's Brief In Opposition

RB—Respondent's Brief

R—Record

SUBJECT INDEX

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**ON WRIT OF CERTIORARI TO
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PETITION FOR REHEARING

It is incomprehensible to this respondent, The Virginia State Bar, that a majority of this Court could hand down on this record an opinion that completely and totally ignores (and thereby tacitly condones) the unadmitted history of more than thirty years of admittedly illegal, grossly unprofessional and persistently reprehensible conduct by the petitioner and its regional counsel, condemned or enjoined in some seventeen states. On the contrary, the opinion emphasizes the benevolent purposes of petitioner's plan and the claimed legal and moral competence of its selected lawyers. The majority appears to find that such a plan was and

is necessary to protect its members from "persuasive claims adjusters, eager to gain a quick and cheap settlement" and from other lawyers either incompetent or "too willing to settle a case for a quick dollar". The inference from such comparison is an insult, we submit, to the Bar of this nation.

The concluding statement of the majority opinion that the First and Fourteenth Amendments protect a "plan for advising workers who are injured to obtain legal advice and for recommending lawyers" is unclear in the light of the opinion as a whole and the uncontradicted facts shown by this record concerning the actual operation of the plan. It is unclear what the Brotherhood may do under the plan so defined and whether the plan permits the *solicitation* of legal employment for its regional counsel. The Brotherhood's intention is manifest from the statements of its counsel at the Bar of this Court that *solicitation* is the purpose, intent and actual operation of the plan,¹ notwithstanding that the right to solicit is not included in the questions presented by its petition or briefs.

—The majority opinion creates the impression that the Court has approved active solicitation by the Brotherhood of legal employment for its selected lawyers and a plan under which the members of any group or association having common interests may select a lawyer for whom such group or association may properly solicit legal employment.

¹ Mr. Naughton, arguing the case orally for the petitioner, plainly asserted that the Brotherhood intends to solicit and that its members do solicit legal employment for the selected lawyers: "We would agree that they solicit. We have a subsidiary point that says they don't unethically solicit." Mr. Naughton also argued that the constitutional privilege claimed by the Brotherhood also permits "that the union could advertise on behalf of a lawyer". (Report of oral argument by Gilbert Halasz, Reporter, at pages 103, 104-5).

Such an interpretation, of which the majority opinion is plainly susceptible, invites other groups to engage in practices long held to be within the state's power to prohibit by regulation of the practice of law.

It is to be hoped that the majority has not intended to approve the wholesale solicitation of legal employment by the petitioner or to extend the protection of the First and Fourteenth Amendments to the activities shown by this record.

The respondent, Virginia State Bar, accordingly prays the Court to grant rehearing of its decision of April 20, 1964, rendered in the above captioned matter, to reverse its erroneous interpretation of the Chancery Court decree and to affirm the same or, in any event, to make clear the meaning of the majority opinion in the light of the undenied facts shown by the record in this case.

REASONS FOR GRANTING REHEARING

1. The majority opinion does not make clear whether the Brotherhood may or may not *solicit* the legal employment by its members of specific lawyers.

The Brotherhood has asserted in its petition and briefs the constitutionally protected right to make known to its members: (1) "the advisability of obtaining legal advice before making settlement of their claims"; and (2) "the names of competent attorneys to handle such claims" (PB 2). It has not there asserted any other right than that so expressed (PB 2, 17, 21, 36, 38, 42, 46, 47-48, 58, 64; PRB 21, 22). Nor has the respondent, Virginia State Bar,

4

ever denied that right as properly and correctly interpreted by the Brotherhood's President Kennedy² and by its counsel appearing for it in the hearing of this matter before the Chancery Court of the City of Richmond,³ namely, the advice to employ a lawyer and the mere recommendation of a specific lawyer, without more. For that reason the Virginia State Bar contested the jurisdiction of this Court to grant certiorari on the ground that there was no question for this Court to decide (RBO 1-3; RB 43-45).

² Mr. Kennedy, then President of petitioner, testified by deposition in this cause in Cleveland, Ohio, on June 1, 1961, as follows (R. 37, 60):

Q. Well, now, Mr. Kennedy, you agree, then, that if any [fol. 218] member of the Brotherhood or any of the investigators sent out by you go any point further than merely suggesting the name of a lawyer, then he is in violation of the Illinois decree?

A. He would have that right under this to suggest—

Q. That isn't answering my question, sir. I don't believe that answers my question.

A. He would have the right to name the attorney who would have the capacity, in his opinion, to handle the claim successfully in any particular State.

Q. And that's as far as he could go under that letter?

A. That is right.

Q. Now, if he undertakes to take that man to the attorney he would be doing wrong, wouldn't he?

A. That is right. He would have no right to take him to the attorney.

Q. And he would have no right to try to persuade him to go to that particular attorney?

A. No, he could just mention the attorney's name.

³ Mr. Stallard, petitioner's only counsel at the *ore tenus* hearing of this matter in the Chancery Court of the City of Richmond, made this formal declaration of the Brotherhood's position in his opening statement to that court: "Mr. Stallard: The respondent alleges that it has the legal right, it has the constitutional right to advise with its [fol. 30] members, give them any information it has, and also to advise lawyers generally or specifically, *but not to channel business. I don't think it has that right.*" (R. 436-437. Italics ours).

The Brotherhood specified, without regard to context, the following parts of the Chancery Court decree, which it claimed deprived it of the constitutional right to advise its members to employ counsel before settling their claims and to recommend a specific lawyer (PB 14; PRB 20; R 27):

"from holding out lawyers selected by it as the only approved lawyers to aid the members or their families; * * * or in any other manner soliciting or encouraging such legal employment of the selected lawyers; * * * and from doing any act or combination of acts, and from formulating and putting into practice any plan, pattern or design, the result of which is to channel legal employment to any particular lawyer or group of lawyers; * * *"

The majority opinion also quotes the foregoing.

The second prohibition so quoted is against *soliciting* such legal employment of the selected lawyers. Both the petitioner and the majority opinion have omitted the full clause of which the quoted language is a part. The complete prohibition is (R. 27):

"from informing any lawyer that an accident has occurred and furnishing the name and address of an injured or deceased member for the purpose of obtaining legal employment for such lawyer, or in any other manner soliciting or encouraging such legal employment of the selected lawyers;"

It is difficult to understand how a prohibition against soliciting and encouraging of such employment deprives the Brotherhood of its constitutionally protected right and

that the furnishing of names and addresses "for the purpose of obtaining legal employment for such lawyer" does not. But the distinction is of little importance when one considers what the Brotherhood has done and intends to do with the claimed constitutional right. The purpose, intent and objective of the Brotherhood is outright, actual solicitation.

The real objective of the Brotherhood, with which the three elements of the decree above quoted conflict was stated in its Reply Brief (PRB 21):

"Such decree prohibits the Petitioner from any *effective advocacy* to its members 1) of the advisability of obtaining legal advice before making settlement of their claims and 2) of the recommendation of particular attorneys to handle such claims." (Italics ours).

At a later point therein the purpose to *advocate*, as opposed to mere recommendation, was made even clearer:

"The American Bar Association, and the State Bar of Virginia, would prohibit any *effective assertion* of the injured employee's rights * * *." (PRB 25. Italics ours).

"Because of this hostility [of all lawyers except union lawyers], the only effective way to see that union members obtain legal advice is to permit group referral to union lawyers. *This is the basis of Petitioner's plan* * * *. Those fundamental rights [freedom of speech and freedom of association] permit the Brotherhood to *advocate* the employment of those lawyers in whom the Brotherhood has confidence." (PRB 27. Italics ours).

That is the bald assertion of the intention to *solicit*, not the mere right to recommend. It is in exact conformity with Mr. Naughton's statement at the bar of this Court of what the petitioner is now doing, what it intends to do, and what it really means by the alleged right to *recommend* (see footnote 1, p. 2, *supra*).

It is also plain that this Court understood at the oral argument what the petitioner was claiming the right to do and what the respondent had sought to prevent, namely, the *solicitation* of legal business as well as a repetition of the other prohibited practices. When the writer of the majority opinion questioned respondent's counsel concerning the three specific prohibitions complained of by the Brotherhood (PB 14; PRB 20), those questions clearly recognized a distinction between mere recommendation and solicitation.⁴

⁴ JUSTICE BLACK: Referring to page 20 of your reply brief—

MR. BOWLES: No, sir; their reply brief.

JUSTICE BLACK: The one to which you referred, setting out the one, two, three to which objection is made. I would assume that those have to be decided, have to be decided as to the validity of those according to what they forbid?

MR. BOWLES: Yes, sir.

JUSTICE BLACK: Am I right in thinking that what those three are intended to forbid, right or wrong, is to forbid this union from picking out a group of lawyers and recommending them and them alone to its members who are injured and *soliciting* them; recommending to the injured members to do business with them and them alone, lawyers selected by them?

MR. BOWLES: That's correct.

JUSTICE BLACK: That is the fact, is it not, the sum total effect of the three?

MR. BOWLES: That's correct. When I was asked the question I was right on that point, sir, so if you will turn to page 21 [PRB 21] you will see that that is what they want to do—the next page.

JUSTICE BLACK: I was wondering if that is the right interpretation?

MR. BOWLES: I think so.

JUSTICE BLACK: And if you are right and the court is right, in

It is unclear whether the majority opinion preserves that distinction. But it is plain from the record that the petitioner has never made that distinction and does not intend to observe it. There is no doubt that the difference between merely recommending a lawyer, the right to do which has never been disputed, and the actual solicitation of legal employment was understood by other members of the Court.

What does the majority opinion decide on that point? The ultimate decision is thus stated:

"We hold that the First and Fourteenth Amendments protect the right of the members through their Brother-

Virginia, the union apparently would be forbidden from picking out a group of lawyers, recommending that group and that alone to its injured employees and *allowing the union to go and solicit them to hire its lawyers and its lawyers alone.*

MR. BOWLES: That, of course, the third thing, is what makes it wrong.

MR. BOWLES: * * * It isn't a question of recommending. It is a question of *solicitation*, advocating; and when we get to the question of whether there is a financial interest, I just read to you, in 1955 the interest was something over two and a half million dollars. (Report of oral argument by Gilbert Halasz, Reporter, at pp. 76-77, 81. *Italics ours.*)

JUSTICE GOLDBERG: Mr. Bowles, before you sit down, if you were to strip from this case, and I recognize it is difficult in light of the background, the *solicitation aspect, the follow through*—if this case were a case of where a union concerned about its membership recommended that they seek legal advice, published a list of lawyers that they recommended as good lawyers, made investigations *but did not pursue it to the point of urging the man to hire the particular lawyers*, would you think that that would be prohibited by your decree?

MR. BOWLES: No, sir; and I think also, in answer to that question, that if the union would be content to do that, they would render a great service both to the bar and to the public. (Report of oral argument by Gilbert Halasz, Reporter, at p. 94. *Italics ours.*)

hood to maintain and carry out their plan for advising workers who are injured to obtain legal advice and for recommending specific lawyers. Since the part of the decree to which the Brotherhood objects infringes those rights, it cannot stand; * * *"

One part of the decree to which the Brotherhood objected as infringing the right asserted, and which the majority quoted at page 4 of its opinion, contains the following: "or in any other manner soliciting or encouraging legal employment of the selected lawyers".

It is not clear whether the Court intends to state that the First and Fourteenth Amendments protect the *solicitation* by the Brotherhood of legal employment for its selected lawyers or only the mere recommendation of those lawyers. Nor is it clear whether or not this Court has approved a plan the admitted purpose and operation of which produce the intended result of channeling all legal employment by its members to the selected lawyers and to them alone by means of "effective advocacy". If the plan so approved is expressly intended by the majority to be limited to advising members to employ counsel before settling a claim and to the mere recommendation of specific lawyers and nothing more, as may be assumed from the references to the plan contained in the opinion (see pages 4, 5, 7, and footnote 9) and that intention and construction is made clear, the nature and operation of the plan and what may be done under it will be clear. If, on the other hand, the plan so approved includes the purpose to solicit and to effectively advocate the employment of the selected lawyers by the means heretofore employed by the Brotherhood, as indicated by the Court's holding that the quoted parts of the decree must fall, the admittedly objectionable practices will continue under the claimed constitutional protection and the Court will not only

have invited the continuation by the Brotherhood of its past unprofessional practices but the eager adoption of them by others under the assumed protection of this opinion.

The concluding language of the majority opinion, standing alone, appears to strike down only such parts of the Chancery Court decree as infringe the right to carry out a plan "for advising workers who are injured to obtain legal advice and for recommending specific lawyers". The opinion also provides that "to the extent any other part of the decree forbids these activities it too must fall". Yet, the opinion orders that "The judgment and decree are vacated and the case is remanded for proceedings not inconsistent with this opinion". Without clarification, the Virginia court can only follow its construction and interpretation of the Court's opinion in determining what further proceedings are consistent therewith and what activities of the Brotherhood it may properly enjoin.

2. The majority erroneously concludes that "what Virginia has sought to halt is not a commercialization of the legal profession which might threaten the moral and ethical fabric of the administration of justice," is not "ambulance chasing" and that neither the members nor the selected lawyers are "parties to any soliciting of business".

Commercialization of the legal profession that does threaten the moral and ethical fabric of our judicial system, ambulance chasing and the solicitation of legal employment are precisely what Virginia has sought to halt in this case. This record discloses without denial more than thirty years of the most sordid and brazen exercise of exactly those

reprehensible practices by the Brotherhood and its selected lawyers, in the face of cumulating injunctions followed by insincere protestations of reform, the latest of which the majority elects to believe.

The plan was admittedly conceived and put into operation with no disapproval of "ambulance chasing". The man who originally established the plan frankly agreed that he "sought to select men who may have used certain means to induce clients to come in there, but who would stand the scrutiny of any fairminded man as to whether their practices were reasonably decent" (R 814; RB 8-9).

From its inception the plan's purpose has been to solicit legal employment for its selected lawyers in order that it might "give regional lawyers a reasonable assurance of a sufficient volume of Brotherhood business to warrant the rendering of proper service on the basis of compensation agreed upon" (R 888). The cut-rate "basis of compensation agreed upon" has not changed (RB 43; R 194, 217, 274, 280, 285, 290, 304, 323, 334, 353, 363, 377, 379, 389, 390, 399, 418). The Chancery Court found that the purpose has not been changed.

Respondent has shown in great detail the practices engaged in by the Brotherhood and its selected lawyers in furtherance of the plan to solicit legal employment for those lawyers prior to April 1, 1959, (RB 7-33), and the continued use of those practices in at least Illinois, Ohio, Indiana, California and Georgia since April 1, 1959, including in one case the effort to have a member change his testimony and commit perjury (RB 34-43). Among the worst of these practices is the studied use of the injured

workman's friend as the "bird-dog" to secure the selected lawyer's employment and the compensation of the "bird-dog" for that service to the lawyer by the Brotherhood and also by the selected lawyer out of his part of the workman's recovery.

The record moreover discloses repeated consent decrees, to which the Brotherhood and its selected counsel have been signatory, that recognize the evils inherent in the plan, accept the injunction against them and agree to their discontinuance. Nevertheless, petitioner formally admitted in this case that the practices continued until April 1, 1959, and the proof shows that they did not then cease.

What greater threat could there be to the moral and ethical fabric of the administration of justice upon which the security of this republic in large measure rests? It is appalling that inferential approval of such a plan should come from the summit of our judicial system from which should emanate the inspiration to safeguard the highest concepts of professional conduct.

CONCLUSION

For the reasons set forth above and those stated in the Brief in Opposition to the Granting of Certiorari and the Brief for the Respondent, the Virginia State Bar respectfully urges that rehearing be granted and that, upon such rehearing, the decree of the Chancery Court of the City of Richmond be affirmed or, in any event, that the majority opinion be clarified so that upon remand further proceed-

ings in this cause may be consistent with a proper understanding of that opinion.

Respectfully submitted,

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901 Mutual Building

Richmond, Virginia 23219

Attorneys for the Respondent

CERTIFICATE OF COUNSEL

Pursuant to the provisions of Rule 58 of the rules of this Court, the undersigned hereby certify that the foregoing petition for rehearing is presented in good faith and not for delay.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1963.

No. 34

BROTHERHOOD OF RAILROAD TRAINMEN,
Petitioner,

vs.

**COMMONWEALTH OF VIRGINIA, ex REL. VIRGINIA
STATE BAR,**
Respondent.

**ON WRIT OF CERTIORARI TO THE SUPREME COURT OF APPEALS OF
THE COMMONWEALTH OF VIRGINIA.**

**PROCEEDINGS RELATIVE TO PETITION FOR REHEARING BY THE
COMMONWEALTH OF VIRGINIA ex REL. VIRGINIA STATE BAR.**

**BRIEF OF THE AMERICAN BAR ASSOCIATION
AS AMICUS CURIAE.**

**FOR THE AMERICAN BAR ASSOCIATION:
WAYLAND B. CEDARQUEST, Chicago, Illinois,
Of Counsel for This Cause.**

**REHEARING ALSO URGED BY
FORTY-FOUR STATE BAR ASSOCIATIONS AND
FOUR LOCAL BAR ASSOCIATIONS,
LISTED ON INNER COVER PAGE.**

Forty-four State Bar Associations and Four Major Local Bar Associations join with the American Bar Association in urging that the Court grant Rehearing.

Alabama State Bar

Alaska Bar Association

State Bar of Arizona

Arkansas Bar Association

State Bar of California

Connecticut Bar Association

Delaware State Bar Association

The Florida Bar

Georgia Bar Association

Bar Association of Hawaii

Idaho State Bar

Illinois State Bar Association

The Indiana State Bar Association

The Iowa State Bar Association

The Bar Association of the State of Kansas

Kentucky State Bar Association

Louisiana State Bar Association

Maryland State Bar Association

Massachusetts Bar Association

State Bar of Michigan

Minnesota State Bar

The Missouri Bar Adm. Advisory Comm.

Montana Bar Association

Nebraska State Bar

State Bar of Nevada

Bar Association of the State of New Hampshire

New Jersey State Bar

State Bar of New Mexico

New York State Bar Association

The North Carolina State Bar
State Bar Association of North Dakota
Ohio State Bar Association
Oklahoma Bar Association
Oregon State Bar
Pennsylvania Bar Association
Rhode Island Bar Association
South Carolina Bar Association
The State Bar of South Dakota
Tennessee Bar Association
State Bar of Texas
Vermont Bar Association
The West Virginia State Bar
State Bar of Wisconsin
Wyoming State Bar

Association of the Bar of the City of New York
New York County Lawyers Association
Chicago Bar Association
The Bar Association of District of Columbia

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**BRIEF OF THE AMERICAN BAR ASSOCIATION
AS AMICUS CURIAE.**

The American Bar Association seeks to file this Brief, as
Amicus Curiae.

The Commonwealth of Virginia, Ex Rel. Virginia State
Bar, Respondent, has consented to the filing of this Brief,
by Stipulation filed herewith. The Brotherhood of Rail-
road Trainmen, Petitioner, has refused to consent. The
American Bar Association has therefore proceeded pur-

suant to Rule 42 (Briefs of *Amicus Curiae*) of the Rules of the Supreme Court, and has filed a Motion for Leave To File This Brief.

Position of American Bar Association.

The American Bar Association respectfully and most strenuously urges that the Court grant Rehearing of its Decision of April 20, 1964.

Position of State and Local Bar Associations.

Forty-four State Bar Associations and Four Major Local Bar Association join with the American Bar Association in urging that the Court grant Rehearing.*

Alabama State Bar

Alaska Bar Association

State Bar of Arizona

Arkansas Bar Association

State Bar of California

Connecticut Bar Association

Delaware State Bar Association

The Florida Bar

Georgia Bar Association

Bar Association of Hawaii

Idaho State Bar

Illinois State Bar Association

The Indiana State Bar Association

The Iowa State Bar Association

The Bar Association of the State of Kansas

Kentucky State Bar Association

*The listed State and Local Bar Associations (although not having received or endorsed copies of this Brief, due to shortness of time) unanimously join in urging, as strongly as possible, that this Court grant Rehearing.

Louisiana State Bar Association
 Maryland State Bar Association
 Massachusetts Bar Association
 State Bar of Michigan
 Minnesota State Bar
 The Missouri Bar *Adm. Advisory Comm.*
 Montana Bar Association
 Nebraska State Bar
 State Bar of Nevada
 Bar Association of the State of New Hampshire
 New Jersey State Bar
 State Bar of New Mexico
 New York State Bar Association
 The North Carolina State Bar
 State Bar Association of North Dakota
 Ohio State Bar Association
 Oklahoma Bar Association
 Oregon State Bar
 Pennsylvania Bar Association
 Rhode Island Bar Association
 South Carolina Bar Association
 The State Bar of South Dakota
 Tennessee Bar Association
 State Bar of Texas
 Vermont Bar Association
 The West Virginia State Bar
 State Bar of Wisconsin
 Wyoming State Bar

Association of the Bar of the City of New York
 New York County Lawyers Association
 Chicago Bar Association
 The Bar Association of District of Columbia

POINT ONE.

The Majority Opinion Severely and Unnecessarily Damages the Canons of Professional Ethics, and the Principles of Law Prohibiting the Unauthorized Practice of Law.

The Majority Opinion appears to hold that the Brotherhood Plan (advising Injured Members to obtain legal counsel, and channeling the claims to specific Attorneys) cannot be enjoined, because the same is protected as being within the Constitutional guarantee of Freedom of Speech. This, unless clarified, damages the Canons of Professional Ethics, and the Rules of Law prohibiting the Unauthorized Practice of Law, so severely as to make future enforcement of the Canons and Rules of Law almost impossible.

The Majority Opinion discusses the Injunction Decree entered by the Chancery Court of Richmond, Virginia against the Brotherhood of Railroad Trainmen. The Majority then goes on to state:

"... but the Brotherhood objects specifically to the provisions which enjoin it

'... from holding out lawyers selected by it as the only approved lawyers to aid the members or their families; ... or in any other manner soliciting or encouraging such legal employment of the selected lawyers; ... and from doing any act or combination of acts, and from formulating and putting into practice any plan, pattern or design, the result of which is to channel legal employment to any particular lawyer or group of lawyers . . .'

"The Brotherhood admits that it advises injured members and their dependents to obtain legal advice before making settlement of their claims and that it recommends particular attorneys to handle such claims. The result of the plan, the Brotherhood admits, is to chan-

nel legal employment to the particular lawyers approved by the Brotherhood as legally and morally competent to handle injury claims for members and their families. It is the injunction against this particular practice which the Brotherhood, on behalf of its members, contends denies them rights guaranteed by the First and Fourteenth Amendments. We agree with this contention."

This appears to state that the Brotherhood can solicit cases for specific Attorneys. Solicitation of cases, of course, is directly contrary to the Canons of Professional Ethics throughout the entire United States. It violates Canon 27, which prohibits Solicitation of Cases, and Canon 35, which prohibits dealing with clients through Intermediaries. It violates the entire spirit of the Canons of Ethics, which seek to make the practice of Law not a trade but a profession.

If the Majority Opinion indeed means to permit the Brotherhood and its Attorneys¹ to solicit cases, this will create havoc in the entire area of Professional Ethics.

First, the great majority of the Organized Bar and State Courts do not agree with the Majority Opinion in its observation that the soliciting of cases by the Brotherhood and its Attorneys is a good thing and does not constitute the "chasing" of cases. Indeed, there have been numerous Ethics Proceedings against the Brotherhood Attorneys over the years, including several such Proceedings presently on file or about to be filed. The Brotherhood itself, by entering into many Consent Decrees, has repeatedly admitted that it could not solicit or channel cases. It is astounding that this Court should now characterize the Brotherhood's Soliciting Plan as being entirely proper

1. It is true that the Majority Opinion, as related to the Brotherhood Attorneys, only states that they can "accept employment." However, the Brotherhood Attorneys have regularly solicited in the past and can be counted upon to get the Union to do it for them in the future.

and ethical, when in fact a case-by-case history of the Plan and an examination of cases involving some of its Attorneys discloses unethical conduct warranting censure or disbarment. It is equally astounding that this Court should characterize all Plaintiffs' Attorneys as being sharp practitioners, excepting only the "selected" Brotherhood Attorneys. These observations do not appear to be justified or needed in order to reach the conclusion that the Brotherhood Soliciting Plan is protected as being Freedom of Speech. Suffice that, if that conclusion is intended by the Court, and if it is intended that the Brotherhood and its Attorneys can solicit cases, this will be most difficult, if not almost impossible, for the Bar and the Courts to understand or follow.

It is respectfully submitted that the Majority Opinion perhaps does not go so far, and that indeed it is not necessary for it to go so far. It is submitted that the Constitutional Rights of the Brotherhood are protected by a holding which states simply that the Brotherhood has the right to discuss the claim of Injured Members, including cautions not to sign improvident Releases and the like, and including a recommendation that the Member see an Attorney, or one of several Attorneys, but certainly not recommending a specific Attorney. This will be briefly discussed further at Point Two of this Brief.

The Majority Opinion omits altogether any mention of the efforts of the Organized Bar to see to it that Legal Services are made readily available to the public. The Bar, for instance, has long sponsored Lawyer Reference Plans. Under such Plans, the Bar Association in a Metropolitan Area establishes a Listing of Attorneys who agree to handle specific classes of cases, such as Divorce, Personal Injury and so on, at a modest Fee. These services are available to any person who cannot otherwise find an Attorney and who, because he can afford to pay some Fee, is not eligible

for Legal Aid. These Plans differ completely from the Brotherhood Plan, in that, *while Brotherhood Cases are referred to one specific Attorney in each Railroad "Region," the Lawyer Reference Plan instead includes many Attorneys to whom Cases are referred, in rotation.* The Majority Opinion, by omitting this, fails to put the matter in proper perspective and fails to consider a possible solution to the problems of the Brotherhood Members. The Bar has, in the past, offered to cooperate with the Brotherhood in establishing some such system for Brotherhood Injury Cases; but the Brotherhood prefers its Single-Lawyer-Monopoly and has not been interested.

The Majority Opinion might also have taken note of the monumental and intensive study of this subject by the California State Bar. Starting with a "Legal Aid Plan" proposed by a Restaurant Workers Union in Los Angeles in 1958, the California Bar has had three Special Committees report on the matter under the heading, "Group Legal Services"; and at this very moment the California Bar has been negotiating for a \$400,000 Foundation grant to study the many problems.

It is probable that the existing information on Lawyer Reference Plans across the United States, and the Group Legal Service Studies in California, would not only put matters in perspective but would also suggest solutions to the problems of Brotherhood Members, "without tearing down the standards of the legal profession." (See *In re Brotherhood of Railroad Trainmen*, 13 Ill. 2d 391, 150 N. E. 2d 163, 1957.)

Second, if the Brotherhood and its Attorneys are to be permitted to solicit cases, what of all those who likewise want to solicit cases? Where are the lines to be drawn? The Majority Opinion furnishes no clear guide-lines whatsoever. Is this "Right to Solicit" supposed to be available to *any* Labor Union and its Attorneys? Can a Labor Union and its Attorneys "solicit" only those causes of

action arising under Federal Statutes? Or can they also "solicit" causes of action arising under State Statutes? Is the "Right to Solicit" available to the Non-Profit Lay Groups and their Attorneys? Is the "Right to Solicit" available to Corporations organized for Profit?

It is critically important that the Organized Bar have adequate guide-lines as regards the Canons of Professional Ethics and as regards the Rules of Law prohibiting the Unauthorized Practice of Law. There are hundreds of Ethics Cases pending in the several States. There are countless "chasers" waiting for a chance to capitalize on Personal Injury Cases. There are thousands of Lay Groups waiting for an opportunity to advertise "Free Legal Advice" or "Low Cost Legal Advice" as a means of increasing their commercial profits. These areas, as any practicing lawyer knows, are the critical and sensitive areas where choices and decisions are made which make our calling either a Trade or a Profession. These areas have traditionally been areas of concern for the Supreme Courts of each State, as part of their power to regulate the practice of law. What will happen if substantial question is now raised as to the power of the State Courts and the Bar Associations to enforce the Canons of Ethics as regards conduct of Lawyers charged with Soliciting? Or their power to prohibit Lay Groups from capitalizing on the services of Lawyers?

One inevitable result will be that the Canons of Ethics, as regards Soliciting and Lay Intermediaries, will be left in such condition as to be almost unenforceable. This will

1. For instance, the AFL-CIO General Counsel's Office sent out a Memorandum to all its Union Attorneys on April 21, 1964, the day after the Decision in this case. The Memo states that the Decision means that the Union will have no more trouble with the Bar Associations in its efforts to see to it that all work-connected legal matters of Union Members are channeled to the Union Attorneys. Needless to say, the Bar does not agree with this Memo. But where does this stand under this Decision?

happen unless adequate guide-lines are made explicit in this case.

Another inevitable result will be endless disputes in the State Courts, with very numerous appeals to this Court. This is clearly predictable unless the Majority Opinion is clarified so as to provide guide-lines in these very difficult areas.

It is, to repeat, critically important that the organized Bar have adequate guide-lines in this Case, as regards the Canons of Professional Ethics and as regards the effect, if any, of this Decision on the Rules of Law prohibiting the Unauthorized Practice of Law. The Majority Decision does not presently provide any such guide-lines. It is respectfully and most strenuously urged that Rehearing be granted.

If Rehearing is granted, can adequate guide-lines be ascertained and stated?

POINT TWO.

Rehearing Can Avoid the Severe and Unnecessary Damage to the Canons of Professional Ethics, and to the Principles of Law Prohibiting the Unauthorized Practice of Law, Which Damage Is Inherent in the Majority Opinion as It Now Stands.

Rehearing can open up two avenues, whereby the extreme difficulties inherent in the Majority Opinion can be avoided. The first avenue relates to the size and shape of the Brotherhood Plan, as related to the Canons of Ethics. The second avenue relates to the First Amendment guarantee of Freedom of Speech and the manner in which it is applied to the facts of this Case.

First, it is clear that the Majority Opinion has omitted any reference to possible alternative solutions of the

problem, how the Brotherhood can effectively discuss Claims of Injured Members and recommended Attorneys. There is, for instance, no mention of the fact that Lawyer Reference Plans, or some similar Plan, can afford a solution which not only protects the Brotherhood's rights but is also consistent with the Canons of Ethics. Coordination of a Lawyer Reference Plan with the Brotherhood Plan could provide the Injured Member with competent legal service at as reasonable a Fee as is offered by the Brotherhood Attorneys. The Brotherhood Attorneys themselves, if accepted by the Bar Association, could appear on the List of Attorneys for this item under the Lawyer Reference Plan. Those Brotherhood Attorneys who are competent, and in good standing before the Supreme Courts of their respective States, would of course be cleared by the Bar Association and would appear on the List. It is true that they would not enjoy the monopoly they presently have, as regards the Claims of Injured Members; but it is perfectly clear that no Attorney is entitled to be guaranteed this monopoly, under the Canons of Ethics as they are presently understood.

This solution, relating to Lawyer Reference Plans, was not presented to this Court, either in the Briefs, or in the Oral Argument. It would undoubtedly have been presented by the American Bar Association, as *Amicus Curiae*, in Oral Argument; however, when the American Bar filed its Petition for Leave to have Twenty Minutes Additional Time for Oral Argument, the Petition was denied. In this respect, the Organized Bar has not had its "day in Court," and the Court has not had the benefit of consideration of this possible solution. Rehearing would permit this.

It is possible, even if the Court is unwilling to consider this solution, relating to Lawyer Reference Plans, that Rehearing could avoid the severe damage to the Canons of

Ethics and to the Rules of Law relating to the Unauthorized practice of Law, inherent in the Majority Opinion. The Court can, on Rehearing, specify guide-lines which will serve to make specific the presently general language of the Opinion. It is surely within accepted practice for the Court to state "Caveats" directed against unwarranted extension of the Decision. If this is not done, it is clearly predictable that the Bar Associations and State Courts will be faced with a claim of privilege, relating to alleged Freedom of Speech, in a vast number of cases involving Professional Ethics or involving Unauthorized Practice of Law; and, when this occurs, this Court, having left the matter indefinite in this Decision, will of necessity be faced with the problem of deciding a very great many cases which otherwise need not come before this Court. If Rehearing is not granted, matters of Professional Ethics and Unauthorized practice of Law will be left unresolved until decided by this Court, a most dangerous course to follow, particularly when avoidable. If Rehearing is granted, these guide-lines can be supplied, minimizing the damage and reducing the likelihood of numerous appeals to this Court.

Second, it is respectfully submitted that the Majority Opinion, in holding that the Brotherhood Plan is protected under the First Amendment guarantee of Freedom of Speech, launches the Court on a sea of confusion and uncertainty as regards the scope and meaning of Freedom of Speech vis-a-vis Lay Intermediaries between Attorneys and Clients. The extent of this confusion and uncertainty has just been discussed in the preceding paragraph. It is respectfully submitted that, as a matter of Constitutional Law, such confusion and uncertainty can and should be avoided, particularly in this area, involving, as it does, matters of critical importance to the entire Legal Profession in the United States.

This Case came before this Court largely because of the fact that this Court had recently decided the case of *NAACP v. Button*, 371 U. S. 415, 9 L. Ed. 405, 83 S. Ct. 328 (January 14, 1963). The *Button* case held that the NAACP had a protected right of Free Speech as regards effective expression of its political objectives, including the channeling of Civil Rights Cases to specific Attorneys. The Majority Opinion in the present Case states that the same result is required here. It should be clear that this is not so, because, while it may be true that it is necessary to permit the NAACP to channel Civil Rights Cases to specific Attorneys, it is most certainly not true that it is necessary to permit the Brotherhood to Channel Injury Claims to specific Attorneys. The difficulty faced by one whose Civil Rights have been wronged, in seeking out and retaining an Attorney, does not obtain in the case of the Injured Railroad Worker. There are many Attorneys in every City and State who either specialize in the handling of Personal Injury Cases, or who include that practice as part of their General Practice. The only problem faced by the Injured Railroad Worker is the intelligent selection of one attorney, from a large field of competent Counsel, and in this regard the Railroad Worker is no different from any of the rest of us.

Is it not possible for this Court to define some of the concepts involved in Freedom of Speech as applied to Lay Intermediaries between Attorney and Client? For instance, it is not possible, using the discussion in the foregoing paragraph as a starting point, to define "Freedom of Speech" and to define "Related Conduct," including the *Button* case in the former and the *Brotherhood* case in the latter; and with such definitions as tools, to permit no State limitation as regards "Freedom of Speech" but to permit some State limitation of "Related Conduct," de-

pending upon a balancing of considerations. Such definitions would permit this Court to reach a result consistent with the *Button* case, protecting the Brotherhood within reasonable limits, while not damaging the Legal Profession. Such definitions would avoid the uncertainty and confusion, and the likelihood of numerous appeals to this Court, inherent in the Majority Opinion. Rehearing would afford an opportunity to reach such definitions.

CONCLUSION.

The American Bar Association, therefore, respectfully urges the Court that it grant the Petition for Rehearing being filed by the Commonwealth of Virginia Ex Rel. Virginia State Bar, Respondent. The American Bar Association, fully aware of the burdens of this Court, but also aware of the very great needs of the Legal Profession, most solemnly and deliberately urges that Rehearing be granted. In so doing, the American Bar Association is supported by the Forty-Four State Bar Associations and the Four Major Local Bar Associations listed herein.

Respectfully submitted,

FOR THE AMERICAN BAR ASSOCIATION:

WAYLAND B. CEDARQUIST, Chicago, Illinois,
Of Counsel for This Cause.

WAYLAND B. CEDARQUIST,
Suite 3000, 33 North La Salle Street,
Chicago 2, Illinois.

Dated: May 11, 1964.

CERTIFICATE.

Wayland B. Cedarquist duly admitted to the Bar of this Court, and whose Appearance is on file in this Cause, states, pursuant to Rule 58 (Rehearings) of the Rules of the Supreme Court of the United States, that this Amicus Brief in support of the Petition for Rehearing filed by Commonwealth of Virginia Ex Rel. Virginia State Bar, Respondent is presented in good faith and not for delay, and that the Rehearing, if granted, is restricted to the grounds specified in the Petition for Rehearing and in this Amicus Curiae Brief.

WAYLAND B. CEDARQUIST.

Dated: May 11, 1964.